

Brunei-IPR Toolkit

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Brunei – IPR TOOLKIT

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NOTE: The United States Government thanks you for your interest and concern regarding the protection of intellectual property rights. This toolkit is meant to be a helpful resource for basic information gathering with respect to Brunei’s intellectual property laws. This toolkit is not to be used to guide legal decisions, and does not qualify as any type of legal advice. Always seek legal counsel within the jurisdiction in which protection is sought before making any decisions concerning your intellectual property rights protection. A list of lawyers and legal aid is available on the United States Ambassador’s website.

BRUNEI IPR TOOLKIT

I. What is IPR?

Intellectual property rights (“IPR”) refer to the legal rights given to persons to protect the creation of their minds. IPR consists of three primary areas: (1) copyright, (2) trademark and (3) patent. By enforcing these rights, innovative people or businesses have an incentive to create because their rights to their creations are protected. Not only do these rights protect the creations from competition, they provide business opportunities such as through licenses or franchise agreements.

II. Current IPR Snapshot

Brunei signed the Agreement on Trade-Related Aspects of Intellectual Property (TRIPs) in April 1994; TRIPs came into force on January 1, 1995. Brunei subsequently passed IPR legislation that took effect on January 1, 2000.

Brunei’s current IPR framework includes the Trade Marks Act (Cap 98), Patents Order 2011, Emergency (Copyright) Order 1999, the Emergency (Layout Designs) Order 1999, Emergency (Industrial Designs) Order 1999, and the Plant Varieties Protection Order 2015. IP owners may take civil proceedings or, in some cases, criminal sanctions may be imposed to protect their rights. Brunei does not have a strong track record in IPR enforcement due to lack of capacity and the fact that enforcement agencies do not have police powers under the respective IP legislation.

A. Trademarks

Trademark law in Brunei is governed by the Trade Marks Act, Cap 98, which came into force on 1st June 2000 and its subsidiary legislation, the Trade Mark Rules, which also came into force on the same date. It is useful to bear in mind that the legislation is adopted from the English Trade Mark Act 1994. Trademark is defined under the legislation as meaning any visually perceptible sign capable of being represented graphically which is capable of distinguishing goods or services of one undertaking from those of other undertakings; it may consist of words, designs, letters, numerals or the shape of goods or their packaging.

Brunei Darussalam is a member of the Paris Convention, which not only adopts the concept of “priority” for trademark applications, but also affords protection for persons in a member state of the Convention in terms of unregistered marks that are “well known” in a member state of the Convention. Brunei Darussalam acceded to the Madrid Protocol for the International Registration of Marks in January 2017.

To obtain protection, the mark must be registered with the Brunei Intellectual Property Office. Brunei Darussalam follows the International Classification of Goods and Services Systems under the Nice Agreement (7th Edition). A mark can be registered if it meets the definition above and provided that it satisfies the substantive requirements under the legislation. To register the trademark, the

applicant will need to make an application for registration to the Registrar of Trade Mark with form TM1, together with an application fee for each class of goods or services in which registration is sought. Upon registration, the duration of protection is for an initial period of 10 years, after which it can be renewed every 10 years indefinitely provided that the registration has not expired and the renewal application made, and renewal fees paid, six months prior to the expiry.

B. Patents

A patent is an exclusive right granted for an invention, which can be a product or a process that gives a new technical solution to a problem. The patent protection regime in Brunei Darussalam uses a first-to-file system, and is governed by the Patents Order 2011 and the Patents Rules 2012. Brunei Darussalam is a member of the Patent Cooperation Treaty (PCT) for the International Filing of Patent and the Paris Convention. The former makes it possible to seek patent protection for an invention simultaneously in each of a large number of countries by filing an international patent application, while the latter allows Brunei Darussalam to follow the “priority” concept which enables inventors to use the filing date of the first application made in any Paris Convention signatory states if they are made within 12 months after the original application.

Brunei Darussalam is also part of the Budapest Treaty on the International Recognition of the Deposit Microorganisms for the Purposes of Patent Procedure, the significance of which is that it eliminates the need for a depositor to deposit the microorganism in each country in which protection is sought but instead to deposit the microorganism once with a depositary authority, thereby saving money while increasing security. Further, Brunei Darussalam is also a member of ASEAN Patent Search & Examination Cooperation (ASPEC) which allows applicants in participating countries to obtain corresponding patents faster and more efficiently.

Patent protection is obtained by registration with the Brunei Intellectual Property Office. In order to be registrable, the invention must be new, involve an inventive step, be capable of industrial application and must not encourage offensive, immoral or anti-social

behavior. The invention must also not fall under categories of inventions which cannot be registered, namely an invention of a method of treatment of the human or animal body by surgery or therapy or of diagnosis practiced on the human or animal body. The invention can be registered by filing an application containing a request for the grant of a patent (Patents Form 1), a specification containing a description of the invention and an abstract, and also the application fee payable within a month of the date of filing.

Once registered, the duration of the protection will be for a period of 20 years from the date of filing the application, subject to payment of annual renewal fees. The patent owner may lose his rights if the annual renewal fees are not paid.

C. Copyright

Copyright affords protection for works like music, lyrics, art paintings, computer software and plays where the copyright owner enjoys exclusive right to control the commercial exploitation of his/her work in terms of right of reproduction, performance, publication, communication or adaptation of the work. Brunei Darussalam is a party to the Berne Convention for the Protection of Literary and Artistic Works which requires member states to offer the same level of protection to authors from other member states that it provides to its own nationals. Copyright law in Brunei Darussalam is governed by the Emergency (Copyright) Order 1999 which was amended in select sections by the Copyright (Amendment) Order 2013.

There is no requirement for authors to register their original work in order to obtain protection in Brunei Darussalam, but the work must be original in order to qualify for protection, meaning that the work must be created with the author's own skill, judgment and individual effort. Copyright law in Brunei extends to original literary, dramatic, musical and artistic works, as well as sound recordings, films, broadcasts, cable programs and typographical arrangements of a published edition. The term of protection for literary, dramatic, musical and artistic work is a period of 50 years from the end of the year in which the author dies, while 50 years from the end of the year in which it was made for sound recordings, films, broadcast and cable programmes. For typographical arrangements of published editions, the term of protection is 25 years from the end of the year in which the edition was first published.

D. Industrial Design

Industrial design is the protection of the ornamental properties of an article such as shape, configuration, pattern or ornament which when applied to an article gives the article unique appearance.

Brunei Darussalam has acceded to the Geneva (1999)

Act of the Hague Agreement Concerning the International Registration of Industrial Designs on September 24, 2013. The main purpose of the 1999 Act is to provide creators and holders of designs in designated states with a simple, rapid and economical procedure to secure and maintain the protection of industrial designs through a single international registration. This creates the possibility for a creator to obtain protection for up to 100 industrial designs in designated states and intergovernmental organizations by filing a single international application in a single language either directly with the International Bureau of the World Intellectual Property Organization (WIPO) or indirectly through the office of applicant's Contracting Party.

The governing legislations concerning industrial design in Brunei Darussalam is the Emergency (Industrial Designs) Order, 1999 and the Industrial Designs Rules of 2000. The law in Brunei Darussalam permits the registration of industrial designs through a formalities examination (pro forma check) of the completed application. To be registrable, an industrial design must be new at the filing date of the application. In order to satisfy this requirement, the industrial design must be one that has not been registered, published, used or sold in Brunei Darussalam or elsewhere before the date on which the application was filed. Furthermore, the design must be applied industrially, that is, it has been applied to more than 50 articles which altogether do not constitute a single article or to articles manufactured in lengths and pieces except hand-made articles.

The registration involves lodging with the Registrar of Industrial Designs a completed application form (Designs Form D1), seven identical sets of representation of the design and the application fee. Registration is for an initial period of five years beginning from the filling date which can be extended for two periods of five years each, totalling a maximum of 15 years. It should be noted that renewal fees are payable every five years.

E. Layout Designs

Layout designs of integrated circuits are the three-dimensional placement of some or all of the elements and interconnections that make up an integrated circuit. Integrated circuit (IC) means a circuit, in its final or an intermediate form, in which the elements, at least one of which is an active element, and some or all of the interconnections are integrally formed in or on a piece of material and that is intended to perform an electronic function.

As governed by the Emergency (Layout Designs) Order, 1999, which provides statutory protection for original layout, designs created after the commencement of the

Order. A layout design is considered original if it is the result of the creator's own intellectual effort and if it is not commonplace among creators of layout designs and manufacturers of integrated circuits at the time of its creation.

It is not necessary to file an application in order to obtain protection of the layout designs in Brunei Darussalam as they are protected automatically if they fulfill the requirements of originality and are created after February 2, 2000. The duration of protection will be for a period of 10 years if it is first exploited commercially within five years of its creation; and in other cases, 15 years from the date of its creation. For the purposes of the Order, commercial exploitation includes the sale, hire, distribution and importation of the layout design, a copy of the layout design, or an IC made in accordance with the layout design.

F. Plant Variety Protection (PVP)

Plant variety protection provides breeders with protection and exclusive control over new varieties of seeds and tubers. The governing legislation dealing with plant variety protection in Brunei Darussalam is the Plant Varieties Protection Order 2015 which came into force on the April 13th, 2015.

In order to obtain protection, application fees must be paid at the same time the application is filed. To be registrable, the plant variety must satisfy the requirement of having a suitable denomination and being new, distinct, stable and uniform within the meaning of the legislation. Once granted, the breeder will enjoy a term of protection of 25 years from the date of the grant of protection.

III. PATENTS

The pertinent legislation relating to Patents in Brunei Darussalam are the Patents Order 2011 and the Patents Rules 2012.

A. Registration

The steps to register are as follows:

- a) File an application [Section 26];
- b) Publish the application [Section 27];
- c) A preliminary examination of an application for a patent by the Registrar [Section 28];
- d) Search and examination [Section 29].

The search request must be filed 13 months from filing date or declared priority date but the examination request must be filed 21 months from filing date or declared priority date. And for a combined search and examination request, it is 21 months from filing date or declared priority date.

- e) Grant of a patent [Section 30]

B. Contents of an Application

Every application for a patent shall contain:

- A request for the grant of a patent (made on Patents Form 1);
- A specification containing a description of the invention, a claim or claims and any drawings referred to in the description or any claim; and
- An abstract [Section 25(3)].

The specification should disclose the invention in a clear and complete manner easily understandable by a person skilled in the art [Section 25(4)].

It should:

- State the title of the invention;
- Continue with the description and the claim or the claims in that order (Rule 22(3)).

The claim should define the matter needing protection, be clear and concise and be supported by the description, and relate to one invention or a group of inventions linked so as to form a single inventive concept [Section 25(5)].

The abstract should provide technical information. It is not to be taken as part of the state of the art [Section 25(7)].

The state of the art of an invention [Section 14(2)] is all matter which has at any time before the priority date of that invention been made available to the public (in Brunei Darussalam or elsewhere) by written or oral description by use or in any other way.

C. What can be Registered

A patentable invention:

- Is new – it does not form part of the state of the art [Section 14(1)];
- Involves an inventive step – a step not obvious to a person skilled in the art [Section 15];
- Is capable of industrial application – can be used in any kind of industry, including agriculture. This does not include invention of a method of treatment of the human or animal body [Section 16];
- Must not encourage offensive, immoral or anti-social behavior.

International Applications

Brunei ratified the Patent Cooperation Treaty – an international application with a date of filing provided under this treaty will thus be treated as an application for a patent in Brunei Darussalam unless withdrawn under the treaty [Section 82].

The provisions of the Patent Co-operation Treaty on publication, search, examination and amendment shall

apply to this international application for a patent in Brunei Darussalam in place of the Patent Order in the international phase of the application.

Amendment

During the examination of the patent, if it appears to the Examiner that the application does not comply with the conditions then the examiner will give at least one written opinion to that effect and the Registrar, upon receipt of the opinion, will send the applicant a notification and copy of the opinion [Section 31(1)]. They may then amend the specification of the application according to the prescribed conditions [Section 31(2)]. This application for amendment before the grant is to be made on Patents Form 17.

It is possible to amend the specification of the patent after it is granted [Section 38].

Duration

Once granted, the patent will take effect on the date of issue of the certificate of grant, and continue in force until the end of the period of 20 years beginning with the date of filing the application for the patent (subject to payment of annual renewal fees) [Section 35]. It is possible to obtain an extension of the term of the patent in certain circumstances [Section 36].

D. Where to Register

Brunei Intellectual Property Office (BruIPO)
The Brunei Economic Development Board (BEDB)
4th Floor, Block 2D
Jalan Kumbang Pasang
Bandar Seri Begawan BA 1311
Negara Brunei Darussalam

E. Infringement and Enforcement

A person infringes a patent for an invention if while, the patent is in force, he does the following in Brunei Darussalam without the consent of the proprietor of the patent [Section 64(1)]:

- The invention is a product: he makes, disposes of, offers to dispose of, uses or imports the product or keeps it whether for disposal or otherwise.
- The invention is a process: he uses the process, offers it for use in Brunei when he knows it is obvious to a reasonable person in the circumstances that use without the consent of the proprietor would be infringement of the patent.
- The invention is a process: he disposes of or offers to dispose of, uses or imports products obtained directly by means of the process, or keeps such products whether for disposal or otherwise.

These must be done for purposes that are commercial [Section 64(2)(a)]:

- not for experimental purposes [Section 64(2)(b)];
- not for preparation of a medicine for an individual according to a prescription given by a registered medical or dental practitioner [Section 64(2)(c)].

Right to bring proceedings for infringement and remedies

Civil proceedings for infringement of patents may be brought by proprietors of a patent, or by the holder of an exclusive license [Section 72]. In infringement proceedings a claim may be made for [Section 65]:

- Injunctions restraining the defendant from any apprehended act of infringement.
- An order for him to deliver up or destroy any patented product in relation to which the patent is infringed or any article in which that product is inextricably comprised or any material and implement which was used predominantly to create the infringing product.
- Damages for infringement.
- Account of the profits derived by him from the infringement.
- A declaration that the patent is valid and was infringed by the defendant.

IV. TRADE SECRETS

In Brunei Darussalam, trade secrets are protected by an action in breach of confidence. There is no specific legislation on trade secrets. Due to the fact that Brunei follows the common law system of the UK, cases from the UK courts on breach of confidence are persuasive in Brunei.

A breach of confidence is calculated by analyzing the following:

- Whether the information or idea was a secret in the first place.
- When the duty of good faith arose: whether a reasonable man, in receipt of the information would have realized upon reasonable grounds that the information was being given to him in confidence.
- That there had been a breach of that duty.

No relationship between the parties is needed for an action in breach of confidence, it is sufficient that the person who obtained the information knows it to be confidential and that it should not be disclosed to others.

Trade secrets may additionally be protected under contract, for example, in a contract of employment. This protection may continue even after the contract of employment has ended.

Remedies for breach of confidence might include injunctions or damages.

V. TRADEMARKS

Legislation relating to trademarks in Brunei Darussalam is the Trade Marks Act Cap 98 and the Trade Mark Rules 2000, which came into force June 1, 2000. The relevant forms relating to trademarks may be found in the Trade Mark Rules.

A. Registration

The process of trademark registration is as follows:

- a) File application [Section 33];
- b) Examination to ensure that the requirements of the Act and rules are satisfied;
- c) Acceptance if it appears to the registrar that all the requirements have been met [Section 38];
- d) Publication in the prescribed manner [Section 39];
- e) Opposition by any person giving written notice of opposition – containing a statement of the grounds of opposition - within 3 months of the date of publication [Section 39];
- f) Registration where the application has been accepted (unless in error) and there is no opposition (or if there is, decided in the applicant's favor) [Section 41].

Application for Registration

Form TM1 is used to apply for a trademark. Where an agent has been appointed for the registration of a trademark, or any procedure relating to a registered trademark, a TM 22 form must be filed at the Registry.

An application for registration of trademark must be made to the Registrar of Trade Mark and must contain [Section 33 of the Trade Marks Act]:

- a) a request for registration;
- b) name & address of the applicant;
- c) a statement of the goods/services for which registration of mark is sought;
- d) a representation of the mark;
- e) a statement that the mark is being used by the applicant/with his consent in relation to the goods/services, or he has bona fide intention of doing so;
- f) the prescribed fee paid within the prescribed time. [Section 41(2)].

Registration of a series of trademarks may be made under Section 42.

Upon registration, the date of registration is the date of filing [Section 41(3)].

Validity

Once registered, a trademark is valid for 10 years from the date of registration. Subsequent renewals of validity

will be for a further period of 10 years [Section 43].

Amendments

Amendments to the application are allowed, but only in respect to the name or address of the applicant, errors of wording or obvious mistakes, or provided the identity of the mark is not substantially affected by the correction [Section 40].

Form TM17 provides that alterations may also be made after the trademark has been registered, but only where the mark includes the proprietor's name or address and the alteration is limited to alteration of that name and address and it does not be substantially affect the identity of the mark [Section 45(2)].

Revoking Registration

Registration of a trademark may be revoked if:

- For a period of five years after registration, the mark was not put to genuine use in relation to the goods or services for which it is registered in Brunei Darussalam by the proprietor or with his consent, and there are no proper reasons for non-use;
- The use has been suspended for an uninterrupted period of five years, with no proper reasons for non-use;
- If, due to the inactivity of the proprietor, it has become a common name in trade for the product or service for which it was registered; or
- Due to the use of the mark by the proprietor or another with their consent in relation to goods or services for which it is registered, it is liable to mislead the public.

The relevant form for revoking registration of a trademark is Form TM 18.

B. What can be Registered

Generally, a registrable mark consists of words, designs, letters, numerals or the shape of the goods or their packaging. The mark must be a visually perceptible sign capable of being represented graphically, and capable of distinguishing goods or services of one undertaking from those of other undertakings.

The following are not registrable [Section 6]:

- Signs devoid of distinctive character;
- Marks which have become customary in current language or in bona fide, established practice of the trade;
- A shape that gives substantial value to the goods, or which results from the nature of the goods, or is necessary to obtain a technical result;
- A mark that is contrary to public policy or accepted principles of morality, of such a nature to deceive the

public;

- A mark that is a specially protected emblem [See section 7 for more detail];
- An application made in bad faith;
- Representation of any arms or insignia, unless the consent of the person entitled to the arms has been obtained (Rule 11).

Additionally, a mark is not registrable if [Section 8]:

- It is identical with an earlier mark within the same industry;
- It is similar to an earlier trademark and is to be registered for goods or services identical with or similar to those for which the earlier trademark is protected; and
- There exists a likelihood of confusion with another mark on the part of the public.

Any marks that are registered despite falling within the categories of Section 8 above may be declared invalid.

The classes of trademarks for goods and services in Brunei are based on the 7th Edition of the International Nice Classification of Goods and Services administered by WIPO. It may be found in Schedule 3 of the Trade Mark Rules which provides for the goods and services from Class 1 to Class 42.

C. Geographic Indications

Geographical indications are protected under the Trademark Act as certification or collective trademarks.

D. Where to Register

Brunei Intellectual Property Office (BruIPO)
The Brunei Economic Development Board (BEDB)
4th Floor, Block 2D
Jalan Kumbang Pasang
Bandar Seri Begawan BA 1311
Negara Brunei Darussalam

E. Infringement and Enforcement

Legal Proceedings

In legal proceedings relating to a registered mark, the registration of a person as proprietor is prima facie evidence of the validity of the original registration, and of any assignment or transfer of it [Section 67].

Infringement Proceedings

Infringement proceedings may only be brought by a proprietor of a trademark. Available remedies are damages, injunction, account or otherwise available to the trademark owner for infringement of any other property right. The court may make the following additional orders where a person is found to have

infringed a registered trademark:

- Order for erasure of an offending sign;
- Order for delivery up of the infringing goods to the proprietor of the trademark; or
- Order for disposal of infringing goods that were delivered up to such persons.

Enforcement Relating to Imported Goods

Where infringing goods may be imported, the proprietor of a registered trademark or a licensee may give a notice in writing to the Controller of Customs requesting him to detain any infringing goods that are, or at any time, come under customs control if such use infringes his rights under the trademark [Section 82].

If it is determined by the court that the infringing goods were imported other than for private and domestic use, it shall make an order that the goods be:

- Forfeited, destroyed or otherwise [Section 89(1)]; or
- Sold where more than one person is interested in any infringing goods, and the proceeds divided [Section 89(3)].

Criminal Sanctions

Criminal sanctions are available against:

- unauthorized use of trademarks in relation to goods [Section 95];
- falsification of the register of trademarks [Section 96];
- falsely representing trademarks as registered [Section 97];
- counterfeiting trademarks used by another [Section 98];
- having possession of instruments for counterfeiting any trademark [Section 99];
- importing or selling goods marked with a counterfeit trademark [Section 100];
- falsely applying registered trademarks to services; and
- unauthorized use of trademarks resembling the Royal arms [Section 102].

Priority under Paris Convention

Brunei ratified the Paris Convention on February 17, 2012. Section 36 of the Trade Marks Act provides for priority from earlier filings from Paris Convention countries for up to six months.

For Well-Known Trademarks

These include marks entitled to protection under the Paris Convention as well-known trade-marks, including a trademark entitled to the benefits of the Paris Convention by virtue of the World Trade Organization Agreement.

VI. COPYRIGHT

Legislation relating to copyrights in Brunei is primarily the Emergency (Copyright) Order 1999, which was amended in select sections by the Copyright (Amendment) Order 2013.

A. Registration

Copyright in Brunei vests in the author's original work automatically upon the creation of the work and does not require the author to register the right. There is no registry or department that would accommodate such registration in Brunei.

A literary, dramatic, musical or artistic work must be original in order to qualify for copyright protection, which means that the author must have created the work through his own skill, judgment and individual effort and that it is not copied from other works.

Further, copyright does not subsist in a literary, dramatic or musical work unless and until it has been recorded, in writing or otherwise (Section 5 (2) of the Order), subject to any agreement purporting to assign the prospective ownership of the copyright to an assignee before the copyright comes into existence – S 94 (1) of the Order.

Under the Order, "author" means the person who created the work and that person shall be the first owner of the copyright. In situations where the work was created by an employee in the course of their employment, the copyright vests in the employer and the employer shall be the first owner of the copyright, subject to any agreements to the contrary.

B. What can be Protected by Copyright Law

Copyright exists for the following works:

- Original literary works: Work other than a dramatic or musical work which is written, spoken or sung. This includes a computer program, a table or compilation of data or other material, whether in a machine readable or other form, which is original by reason of the selection or arrangement of its contents.
- Dramatic works: Work of dance or mime.
- Musical works: A work consisting of music, exclusive of any words or action intended to be sung, spoken or performed with music.
- Artistic works: A graphic work (any painting, drawing, diagram, map, chart or plan and any engraving, etching, lithograph, wood cut or similar work), photograph, sculpture or collage, a work of architecture, being a building or a model for a building or a work of artistic craftsmanship.
- Sound recordings: A recording of the whole or any part of a literary, dramatic or musical work) from which sounds reproducing the work or part may be

produced).

- Films: A recording on any medium from which moving image may be produced.
- Broadcasts: Transmission by wireless telegraphy of visual images, sounds or other information which is capable of being lawfully received by members of the public or is transmitted for presentation to members of the public.
- Cable programmes: A service that consists wholly or primarily of sending visual images, sounds or other information by means of a telecommunications system, other than by wireless telegraphy for reception.
- Typographical arrangements: Of a published edition. Published editions of the whole or any part of one or more literary, dramatic or musical works

Duration of protection

Literary, dramatic, musical and artistic.

The life of the author plus 50 years.

Sound recordings and films

50 years from the date of production or release to the public.

Broadcast and cable programmes:

50 years from the date the broadcast was made or the programme was included in a cable programme service.

Published edition:

25 years from the end of the year in which the edition was first published.

Moral rights:

The author of a copyright literary, dramatic, musical or artistic work and the director of a copy-right film have the right to:

- Be identified as the author or director of the work [Section 80];
- Object to derogatory treatment of work [Section 83];
- Not have literary, dramatic, musical, artistic work attributed to him as author and not to have film falsely attributed to him as director [Section 87];
- Privacy of certain photographs and films [Section 88].

Performers or persons having recording rights in relation to a performance such that consent is required for:

- Recording the performance for other than private or domestic use [Section 182(1)];
- Showing or playing in public or on broadcast a recording of such a performance [Section 183];
- Imports of the performance other than for private and domestic use, or in the course of business possesses,

sells, lets for hire, offers or exposes for sale or hire or distributes such a recording of a performance [Section 184].

Performers will have a moral right to be identified as the performer of his performance and to object to any modification of his performance that is prejudicial to his honor or reputation [Section 188(1)].

C. Infringement and Enforcement

An infringement of copyright is actionable by the copyright owner [Section 99(1)].

Primary infringement is a “strict liability” offense, meaning no knowledge or intention is required to be shown by the defendant to establish liability. Primary infringement is considered to be:

- Copying the work [Section 19];
- Issuing copies of the work to the public [Section 20];
- Renting or lending of copies of the work to the public [Section 20A];
- Performing, showing or playing the work in public [Section 21];
- Broadcasting the work or including it in a cable program service [Section 22];
- Adapting the work [Section 23];
- Communicating the work to the public [Section 24].

Secondary infringement requires the defendant to have certain specified knowledge or reasonable grounds for having such knowledge at the time of the offense. Secondary infringement is considered to be:

- Importing an infringing copy of the work otherwise than for private and domestic use [Section 26];
- Possessing in the course of business, selling, hiring out, offering or exposing for sale or hire an infringing copy in public without the license of the copyright owner [Section 27];
- Possessing, making, importing, selling or hiring out an article specifically designed or adapted for making copies of that work [Section 28];
- Permitting use of a place of public entertainment for an infringing performance [Section 29];
- In a public performance of the work, supplying the apparatus for playing the infringing works [Section 30];
- Showing the performance or broadcast without consent of the owner of the recording rights in relation to a performance [Section 191];
- Importing an illicit recording of a performance for use that is not private or domestic, and in the course of

business possesses, sells, lets for hire or distributes such a performance [Section 192].

Exceptions are available for the lawful owners of a copy of a computer program [Section 25].

Remedies for Infringement

- Remedies available for infringement of any other property right, such as damages, injunction, account or otherwise [Section 99(2)];
- Forfeit or deliver the infringing work to the owner or destroy the infringing work [Section 212];
- Seizure and detention of infringing copies of the work [Section 102];
- Injunctive relief and prohibition of the act, or a disclaimer to disassociate the author or director from the treatment of the work [Section 105(2)].

Criminal Sanctions

Criminal penalties of infringement include a prison term, a fine or both [Section 203A, 204, 205, 207, 208].

Criminal sanctions are available against:

- Making for sale or hire infringing articles;
- Importing infringing articles other than for private and domestic use;
- Communicating the work to the public;
- In the course of business, possessing infringing articles with the intent of infringing;
- In the course of business, selling, letting for hire or exposing infringing articles as such, exhibiting in public or distributing;
- Other than in the course of business, distributing to such an extent as to prejudicially affect the owner of the copyright; and
- Making an article specifically designed or adapted to make copies of a particular copyright work.

VIII. CURRENT BRUNEI INTELLECTUAL PROPERTY LEGISLATION

A. Legislation

- Emergency (Copyright) Order 1999
- Copyright (Amendment) Order 2013
- Patents Order 2011
- Patents Rules 2012
- Trade Marks Act, Cap 98
- Trade Marks Rules 2000
- Trade Marks (Importation of Infringing Goods) Regulations 2000

- Emergency (Industrial Designs) Order, 1999
- Industrial Designs Rules of 2000
- Emergency (Layout Designs) Order, 1999
- Plant Varieties Protection Order 2015

B. International Treaties

- World Trade Organization (WTO)
- Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs)
- World Intellectual Property Organization (WIPO)
- Hague System for the International Registration of Industrial Designs
- Berne Convention for the Protection of Literary and Artistic Works
- Patent Cooperation Treaty (PCT) for the International Filing of Patent
- Paris Convention for the Protection of Industrial Property
- Budapest Treaty on International Recognition of the Deposit Microorganisms for the Purposes of Patent Procedure
- ASEAN Patent Search & Examination Cooperation (ASPEC)
- ASEAN Framework Agreement on Intellectual Property Cooperation
- Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks