



## Intellectual Property in Malaysia (As of April 2020)

As an established industrial nation, Malaysia has a modern regime for the protection of intellectual property. Both domestic and foreign investors benefit from this regime. The level of protection is comparable to that in Germany. Malaysia is a member of the World Intellectual Property Organization and has joined various international treaties for the protection of intellectual property. In addition, the country has signed the corresponding UN agreement (TRIPS).

For foreign companies considering a move to Malaysia, the timely protection of their products, innovations and inventions is of central importance. This is the only way to ensure that the market entry is successful and that products and services can be offered without obstruction and that intellectual property is not lost when entering the Malaysian market.

Industrial property protection in Malaysia is divided into the categories of patents, designs, copyrights, trademarks and geographical indications.

### 1. Patents

#### a. What are patents?

Patents protect inventions and give the owner the right to exclusively exploit his invention. Patent protection can be obtained for both products and processes.

#### b. What can be patented?

Any invention that provides a solution to a specific problem in any technical field. The invention can be a product or process and must (i) be new, (ii) involve an inventive step and (iii) be industrially applicable.

#### c. How long is the patent protection valid and how is it applied for?

The patent protection is valid for 20 years from the date of application. If a product or process is novel and industrially applicable but does not exhibit the necessary degree of inventive step, a Utility Innovation (UI) can be applied for, similar to the German "Gebrauchsmuster".

The Malaysian Intellectual Property of Organizations (MyI-PO) is responsible for patent applications. The procedure for granting patents is transparent. Before filing an application, it should be checked whether the conditions for granting the patent in Malaysia are met. Foreign companies must note that they cannot apply for patents in Malaysia on their own but must work with a reg-



istered patent agent. This agent will compile the necessary patent documents within one to two months and submit them to MyIPO. Documents can be filed in English.

#### **d. How long does it take for the patent to be successfully registered?**

Two types of procedure are available for the granting of patents. The normal procedure takes approximately 3 to 5 years. On payment of a fee, the applicant can also opt for an accelerated procedure, which can be completed after 2 - 4 months.

## **2. Trademarks**

### **a. What is a Trademark?**

A trademark serves to identify your product or service and differentiates you from your competitors. A trademark can be, for example, a brand name, logo, header, label, distinguishing mark, terms, letters, numbers or any combination of these.

### **b. Things to Consider**

For a successful registration, it is important to know who was the first to use the trademark in Malaysia. Its registration or use abroad is irrelevant. It is therefore particularly important for foreign companies to register the trademark in good time, preferably before entering the market.

According to the regulations for patents, trademarks can only be registered by registered Trademark Agents. The registration procedure can be completed within two years. The protection of a trademark extends over a period of 10 years with the possibility of multiple renewals.

## **3. Copyrights**

Copyrights protect intellectual creations, e.g. in literature, art, music or computer programs. Works, which are under copyright, may only be copied or distributed with permission.

The copyright does not depend on an effective registration but arises automatically with the creation of the work. The scope of protection extends to 50 years and exists in principle even after the death of the creator.

## **4. Designs**

A design protects the two- or three-dimensional appearance of part or all of a product. The design of a surface - for example a fabric or wallpaper - or the design of a three-dimensional object - for example furniture, cars or toys - can be protected.

A prerequisite for registration is that the object is novel and (its production method or) its design is not exclusively determined by its function. A registration requires that the applicant is the first to apply for the design and that the (commercial) design has not yet been published or used.



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As with patent and trademark procedures, only registered Industrial Design Agents can apply for registration of designs. Registered designs are initially protected for five years with the possibility of renewal twice.

## **5. Geographical Indication**

Indications of origin apply to products from certain locally delimitable areas. A prerequisite is that their specific quality, reputation or certain characteristics are directly linked to their geographical origin. There is no limitation to certain products. Products with registered indications of source are e.g. Nürnberger Lebkuchen or Wernesgrüner Bier. Although the registration cannot guarantee the absolute protection of the indication of source, it does help to enforce related rights. The protection for registered indications of source exists initially for 10 years and can be extended several times thereafter.

**Disclaimer of liability:** This information is intended to provide a general overview on intellectual property law in Malaysia and should not be regarded as legal advice for specific circumstances. No responsibility for loss to any person acting or refraining from acting as a result of any information in this overview can be accepted by Malaysian-German Chamber of Commerce and Industry. Recipients should not act on the basis of this information without seeking professional advice of a lawyer.