

SIMPLIFIED PROCESS FOR INTELLECTUAL PROPERTY DISPUTES AT THE HIGH COURT

1. The new Supreme Court of Judicature (Intellectual Property) Rules 2022 (“**IP Rules 2022**”) came into force on 1 April 2022.
2. The IP Rules 2022 introduce a new streamlined track for resolving intellectual property (“**IP**”) disputes in the High Court. It is called the “Simplified Process for Certain Intellectual Property Claims” (“**Simplified Process**”).

KEY FEATURES OF THE SIMPLIFIED PROCESS

3. The Simplified Process seeks to enhance the accessibility of the IP dispute resolution system in Singapore, particularly for individuals and SMEs. To this end, the Simplified Process has the following key features:
 - (a) **Case Management Conference (“CMC”).** A claim brought under the Simplified Process will be subject to active case management by the Court at the CMC. In particular, the Court would give directions for the case to proceed expeditiously and, if practicable, give directions to ensure the trial is completed within two days. Where practicable, such directions must be made at a single CMC.

Further, the Court is empowered to give directions such as identifying and narrowing the factual and legal issues in dispute, the evidence that may be given, the number of affidavits and witnesses, time for examining each witness, identifying the most similar prior art in a dispute concerning the validity of the patent as well as date and duration of hearing.
 - (b) **Cap on trial length.** Trials under the Simplified Process are intended to be completed within 2 days, and the Court must make directions to ensure this if possible. The Court may make an order at the CMC that the Simplified Process does not apply to the IP dispute if it is not practicable for the trial to be completed within 2 days.
 - (c) **Fixed and capped costs.** The Court may only make cost orders in respect of items set out in Table A of the IP Rules 2022 with each item being subject to a maximum amount. To encourage early settlement, the cost is front-loaded. This means the costs that may be awarded at the beginning of the matter may be

1 April 2022

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proportionately higher as compared to the costs that may be ordered as the matter progresses.

The total cost is capped. Overall, it cannot exceed \$50,000 in relation to the trial of the originating claim and \$25,000 in relation to any bifurcated assessment of the amount of monetary relief.

If a claim proceeds to trial, the Court must not make any cost order until the trial is completed.

- (d) **Appeal costs may be limited.** If a claim is commenced under the Simplified Process, the appellate Court may make an order to limit the costs recoverable when the claim is on appeal.

REQUIREMENTS FOR THE SIMPLIFIED PROCESS TO APPLY

4. The Simplified Process is only suitable for a case if all of the following conditions are satisfied:
 - (a) The dispute must involve an IP right.
 - (b) Either the monetary relief claimed by each party in the action does not or is unlikely to exceed \$500,000, or all parties agree to the Simplified Process.
 - (c) The case is otherwise suitable for the Simplified Process. This is a holistic enquiry involving all relevant factors such as (i) whether a party can only afford to bring or defend the claim under the Simplified Process, (ii) the complexity of the issues, and (iii) whether the estimated length of the trial is likely to exceed 2 days.
5. To elect the Simplified Process, the claimant must file and serve the prescribed forms, which include a form to abandon any claim for monetary relief in excess of \$500,000. However, even if the claimant elects for the Simplified Process, the Court may still order that the Simplified Process does not apply to the claim if it considers the claim not suitable to be heard and disposed of under the Simplified Process.
6. A defendant making a counterclaim in relation to a claim commenced under the Simplified Process must either agree to the Simplified process and abandon any claim in excess of \$500,000 or it may inform the Court that it disagrees with the application of the Simplified Process. While there is no clear provision for how the Court would resolve a disagreement in this regard, it is likely that the Court would consider whether the counterclaim would or is likely to exceed S\$500,000, as well as all relevant factors (including those set out at paragraph 4(c) above).

CONCLUSION

7. The introduction of the Simplified Process is a useful alternative pathway for litigants with limited means in less complex cases. However, given the truncated and simplified manner of such proceedings, litigants should be cautious about hastily opting for the Simplified Process; care should be taken to ensure that the Simplified Process is the right option for their case.

CLIENT NOTE



8. If you would like to know if the Simplified Process is appropriate for your case or have any question on any aspect of this client note, please contact our Mr. Tan Tee Jim, S.C. (tanteejim@leenlee.com.sg) or Mr. Basil Lee (basillee@leenlee.com.sg).

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