

SINGAPORE HIGH COURT RULES ON FIRST CASE INVOKING THE SIMPLIFIED PROCESS

INTRODUCTION

1. It is commonly believed that intellectual property (“IP”) litigation is complex, costly and time-consuming. Such beliefs often dissuade IP rights owners from enforcing their rights.
2. Singapore has taken active steps to reduce the complexity, cost and time of IP litigation by introducing a simplified process (“**simplified process**”) to ensure that parties in appropriate cases may access the courts in a cost-effective and expeditious manner. We [previously summarised](#) the key features and requirements of the simplified process.
3. Recently, the Singapore High Court issued a written judgment on the first case which invoked the simplified process (*Tiger Pictures Entertainment Ltd v Encore Films Pte Ltd* [2023] SGHC 138 (“**Tiger Pictures**”). The decision answers, in particular, the question of which cases the simplified process should apply to.

CASE BACKGROUND

4. The main claim in *Tiger Pictures* was for copyright infringement of the Chinese film “*Moon Man*”. The Defendant’s primary defence was that an agreement had been reached between it and the Claimant for the distribution of “*Moon Man*” in Singapore. The Defendant also counterclaimed against the Claimant for (i) groundless threats of copyright infringement, and (ii) infringement of copyright in an earlier work which the Defendant was exclusive licensee of.
5. The Claimant filed a form electing for the simplified process to apply while the Defendant filed an application to dis-apply the simplified process.

CONDITIONS FOR THE SIMPLIFIED PROCESS TO APPLY

6. The simplified process may be triggered in one of two ways:
 - (a) By the election of the claimant (as in this case), wherein the court may still make an order to *not apply* the simplified process; or
 - (b) By the Court’s order made at its own motion or on the application of a party.
7. Regardless of the way used, the touchpoint for suitability of the simplified process is the same. The Courts will have to ensure three cumulative conditions (the “**Conditions**”) are fulfilled:

24 May 2023

For any queries relating to this article, please contact:

Tan Tee Jim, S.C.

tanteejim@leenlee.com.sg

Basil Lee

basillee@leenlee.com.sg

Authors:

Tan Tee Jim, S.C.

Basil Lee

Zhuoyan Yang

Lee & Lee

25 North Bridge Road

Level 7

Singapore 179104

Tel: +65 6220 0666

For more legal updates, please visit the News & Publication Section of Lee & Lee’s website at www.leenlee.com.sg, or follow Lee & Lee’s Facebook page at www.facebook.com/leenlee.com.sg/ and Lee & Lee’s LinkedIn page at <https://lnkd.in/g6bNfv8G>.

Disclaimer: The copyright in this document is owned by Lee & Lee.

No part of this document may be reproduced without our prior written permission.

The information in this update does not constitute legal advice and should not form the basis of your decision as to any course of action.

- (a) the dispute must involve an IP right;
- (b) the monetary relief claimed by each party (whether in relation to an intellectual property right or otherwise) in the action does not or is not likely to exceed S\$500,000 or all parties agree to the application of the simplified process; *and*
- (c) the case is suitable for the simplified process, having regard to:
 - (i) whether a party can only afford to bring or defend the claim under the simplified process;
 - (ii) the complexity of the issues;
 - (iii) whether the estimated length of the trial is likely to exceed two days; and
 - (iv) any other relevant matter.

8. Conditions (a) and (b) were not contentious in *Tiger Pictures*. As regards Condition (b), it sufficed for the Claimant to file and serve the form electing for the simplified process and abandoning any claim for monetary relief above S\$500,000. The Court also took the view that the counterclaims were unlikely to exceed S\$500,000 in monetary relief as the damages of such counterclaims were not particularised.

9. As regards Condition (c), the Court laid down the following guiding principles:

- (1) All factors should be considered in their totality.
- (2) The Court should place greater emphasis on the factors (i) to (iii) which are expressly highlighted by statute.
- (3) The fact that a party can only afford to bring or defend a claim under the simplified process will favour its application, but the converse is not true: the fact that one or both parties can afford to litigate a claim through the normal route does not necessarily mean that the simplified process should not apply.
- (4) The two related factors of (ii) the complexity of the issues and (iii) the estimated length of the trial are likely to be more decisive. If either of these points away from the suitability of a case for the simplified process, that should be a strong indication that the case is indeed unsuitable.
- (5) A relevant matter which may be considered under factor (c)(iv) is proportionality of costs. In general, the lower the quantum of the claims involved, the more likely a case will be suitable for the simplified process.

10. Applying the guiding principles, the Court found that the issues in the suit were neither legally nor factually complex because the case turned largely on the point of whether a binding distribution agreement between the parties had been concluded. The relevant evidence on this issue was largely confined to communications between the parties' representatives, which was documentary in nature. Thus, given the documentary nature of the evidence, that the witness testimonies were confined to narrow points, and the only foreign witness was prepared to travel to Singapore for trial, the Court took the view that the estimated length of trial would not exceed two days. In coming to its view, the Court also dismissed the merits of the Defendant's counterclaims and questioned the relevance of an expert witness whom the Defendant wished to call.

CASE NOTE



11. Finally, as the total gross box office revenue was alleged to be at least S\$153,905.54, the Court took the view that any damages would likely be less than this sum. If the case was not heard on the simplified process, the legal fees and time expended would be disproportionate.

CONCLUSION

12. The case stands as a salutary reminder that “*parties should not be allowed to hold the courts hostage by insisting on dragging a relatively simple matter through the normal route*”. Courts will not take a party’s trial strategy at face value, but will closely examine factors such as the issues truly in contention, the witnesses whom a party intends to call, and the points of evidence which the witnesses will testify on, to determine if a case is appropriate for the simplified process.
13. 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).

About Lee & Lee

Lee & Lee is one of Singapore’s leading law firms being continuously rated over the years amongst the top law firms in Singapore. Lee & Lee remains committed to serving its clients’ best interests, and continuing its tradition of excellence and integrity. The firm provides a comprehensive range of legal services to serve the differing needs of corporates, financial institutions and individuals. For more information: visit www.leenlee.com.sg.

The following partners lead our departments:

Kwa Kim Li
Managing Partner

kwakimli@leenlee.com.sg

Quek Mong Hua
Litigation & Dispute Resolution

quekmonghua@leenlee.com.sg

Owyong Thian Soo
Real Estate

owyongthiansoo@leenlee.com.sg

Tan Tee Jim, S.C.
Intellectual Property

tanteejim@leenlee.com.sg

Adrian Chan
Corporate

adrianchan@leenlee.com.sg

Louise Tan
Banking

louisetan@leenlee.com.sg