

知识产权法

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马来西亚提供各种形式的知识产权保护。本指南简要概述在马来西亚所认可的知识产权类型。

专利

1983 年《专利法》为注册专利提供保护。通过注册发明或实用新型，可在马来西亚获得专利保护。专利权自申请之日起 20 年后到期。在专利期限内，第二年起每年需缴纳规定的年费以保持专利有效。《专利合作条约》（PCT）于 2006 年 8 月 16 日在马来西亚生效。马来西亚也加入了《布达佩斯条约》（Budapest Treaty），允许承认微生物的储存以用于专利程序，无论保藏单位的地点在哪里。

商标

马来西亚于 2019 年 9 月 27 日加入《马德里议定书》（Madrid Protocol），《2019 年商标法》于同日生效，废除了旧的《1976 年商标法》。商标所有者现在可以利用集中申请系统，在马来西亚提交一份商标申请，并指定寻求商标保护的国家。根据新的《2019 年商标法》，形状商标、包装商标、颜色商标、声音商标、全息图商标、运动序列商标和声音商标等非传统商标也是可注册的商标。新法令也允许提交多类别申请。

值得注意的是，马来西亚采用先用者原则（first-user principle），即商标的第一个使用者有权合法使用该商标，有别于中国采用的先申请制度。未注册商标所有者也受到普通法的保护，商标所有者可以对假冒行为提起诉讼。

保护期自注册之日起为十年。随后支付续展费后，该期限可无数次延长，每次延长为十年。

版权

版权保护在作品创作时自动产生。马来西亚是《伯尔尼保护文学和艺术作品公约》（1886 年）（Berne Convention）的缔约国。

2012 年 3 月 1 日生效的《1987 年版权法》修正案也制定了版权制度的自愿通知。

对文学、音乐或艺术作品的保护期限为作者有生之年加上 50 年。对已出版版本、电影、录音、广播和表演的保护期限为作品首次出版或表演后的日历年开始后的 50 年。

Chooi & Company
Level 5, Menara BRDB
285, Jalan Maarof
Bukit Bandaraya
59000 Kuala Lumpur



其他形式的知识产权或专有权也受到以下保护：

- 《1996 年工业设计法》；
- 《1998 年特许经营法》；
- 《2022 年地理标志法》；
- 《2000 年集成电路布图设计法》；
- 普通法保密法下的机密信息

马来西亚知识产权局（“MyIPO”）负责商标、专利、工业设计的注册和版权的自愿通知。

MyIPO 网站（www.myipo.gov.my）提供有关知识产权申请的申请程序和规定的官方费用的指导。相关表格也可在网站上找到。

此材料仅供一般信息参考，不构成法律建议。
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For further information regarding this client alert, please contact: -

Alexie Ng Ying Ching

Partner

+603 2055 3846

alexien@chooi.com.my

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INTELLECTUAL PROPERTY LAW

Various forms of intellectual property rights are available for protection in Malaysia. This guide provides a brief overview of the types of intellectual property rights recognised in Malaysia.

Patents

The Patents Act 1983 (“**PA**”) provides protection for registered patents. Patent protection in Malaysia is available by registering the invention or utility innovation. A patent expires 20 years after the date of application. Prescribed annual fees are payable for each succeeding year during the term of the patent to keep a patent in force. The Patent Cooperation Treaty (PCT) came into effect in Malaysia from 16 August 2006. Malaysia has also acceded to the Budapest Treaty, which recognises the storage of microorganisms for the purpose of patent procedures.

Trademarks

Malaysia acceded to the Madrid Protocol on 27 September 2019, and the Trademarks Act 2019 came into force on the same day, repealing the old Trade Marks Act 1976. Trademark owners are now able to take advantage of the centralised filing system, by filing a single trademark application in Malaysia and designating the countries in which trademark protection is sought. Non-traditional trademarks such as shape marks, packaging marks, colour marks, sound marks, hologram marks, sequence of motion marks and sound marks are also registrable trademarks under the new Trademarks Act 2019. Multiclass applications can also be filed under the new Act.

It should be noted that Malaysia adopts the first-user principle. The first user of a mark is lawfully entitled to use the mark, unlike China which adopts the first-to-file system. Owners of unregistered trademarks are also protected in common law where trademark owners may sue for passing-off.

Protection lasts for ten years from the date of registration. This can be extended indefinitely for additional ten-year periods on subsequent payments of the renewal fees.

Copyright

Copyright protection arises automatically on creation of the work. Malaysia is party to the Berne Convention for the Protection of Literary and Artistic Works 1886.

Amendments to the Copyright Act 1987 which came into force on 1 March

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2012 have provided for voluntary notification of copyright system.

Protection for literary, musical or artistic works lasts for the life of the author plus 50 years. Protection for published editions, films, sound recordings, broadcasts and performances lasts for 50 years from the beginning of the calendar year after which the work was first published or performed.

Other forms of Intellectual Property rights or proprietary rights are also protected under the following:

- Industrial Designs Act 1996;
- Franchise Act 1998;
- Geographical Indications Act 2022;
- Layout-Designs of Integrated Circuits Act 2000
- Confidential information under the laws of confidentiality in common law

General

The Malaysian Intellectual Property Corporation ("**MyIPO**") is responsible for the registration of trade marks, patents, industrial designs and copyright voluntary notifications.

The MyIPO website (www.myipo.gov.my) provides guidance on the application procedure and prescribed official fees for the relevant applications. The related forms are also available on the website.

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Partner

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alexien@chooi.com.my

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