



## Introduction of the new Singapore International Commercial Court (SICC)

### Introduction

At the opening of Legal Year 2013, Chief Justice Sundaresh Menon (“**Menon CJ**”) broached the idea for the creation of the Singapore International Commercial Court (“**SICC**”). Almost 2 years later, at the commencement of Legal Year 2015, Menon CJ officially inaugurated the launch of the SICC.<sup>1</sup>

### Aim of the SICC

As stated in the SICC Committee’s report of November 2013, the SICC is to “*enable Singapore to enhance its status as a leading forum for legal services and commercial dispute resolution*”.<sup>2</sup> In the words of Menon CJ, the SICC is to “*build upon and complement the success of [Singapore’s] vibrant arbitration sector and make [Singapore’s] judicial institutions and legal profession available to serve the regional and global community*”.<sup>3</sup>

### Role of the SICC

The SICC is regarded as a division of the High Court of Singapore and possesses the same powers as that accorded to the High Court.<sup>4</sup> Currently, the SICC’s panel of Judges consists of 15 Singapore Judges and 11 International Judges<sup>5</sup>, each being a prominent and distinguished member of their own respective jurisdiction’s legal fraternity.<sup>6</sup> The diversity, quality and experience of the SICC’s panel of Judges is further set to promote Singapore as a neutral and competent forum for hearing international disputes.<sup>7</sup>

The SICC therefore seeks and is able to overcome the limitations that currently plague the effectiveness of arbitration, namely:

1. Arbitration is voluntary and the Singapore International Arbitration Centre (“**SIAC**”) does not possess any coercive powers to ensure that third-parties (especially if they are not a party to the contract containing the said arbitration clause) attend arbitration.<sup>8</sup> In multi-party and multi-national disputes, this can become very problematic indeed;

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<sup>1</sup> *Lim Yi Han*, Straits Times, “New Singapore International Commercial Court Launched”, dated 5 January 2015. Available at URL: <http://www.straitstimes.com/st/print/3279684>, as at 20 January 2015.

<sup>2</sup> *Report of the Singapore International Commercial Court Committee*, dated November 2013, at page 5. Available at URL: <https://www.mlaw.gov.sg/content/dam/minlaw/corp/News/Annex%20A%20-%20SICC%20Committee%20Report.pdf>, as at 20 January 2015.

<sup>3</sup> *Vide Supra*, Note 1.

<sup>4</sup> *Singapore Court of Judicature Act* (Cap. 322), sections 5A, 9(5) and 18A to 18M, wef 1 January 2015.

<sup>5</sup> *Singapore International Commercial Court*, “Judges”. Available at URL: <http://www.sicc.gov.sg/Judges.aspx?id=30>, as at 20 January 2015.

<sup>6</sup> *Vide Supra* Note 1.

<sup>7</sup> *Vide Supra*, Note 2, at page 21, para 49.

<sup>8</sup> *Vide Supra*, Note 2, at page 12, para 16.



2. The subject-matter of the dispute may not be '*arbitrable*' (such as special torts arising from contract, international intellectual property or trust disputes)<sup>9</sup>; and
3. A Judgment of the SICC, will have the same recognition as that of the Supreme Court of Singapore and may be enforced through reciprocal enforcement legislation, and will be fully effective for enforcement in some countries, where otherwise an arbitral award may not.<sup>10</sup>

## When will the SICC have Jurisdiction?

The SICC can hear cases where:<sup>11</sup>

1. The parties to a dispute have applied for and consented to the use of the SICC;
2. Where there is a contractual agreement that confers the SICC jurisdiction to preside over disputes arising out of or in connection to the underlying contract; and,
3. When the CJ directs a case to be transferred to the SICC and that the SICC is therefore the appropriate forum to hear the dispute.

## Foreign Representation

Additionally, parties may, in certain circumstances, be represented by foreign lawyers in the SICC, so long as the foreign lawyers are registered under Singapore's Legal Profession Act (Cap. 161). The main category of cases in which registered foreign lawyers may represent parties is in "*offshore cases*".

An offshore case may arise when the action concerned has no substantial connection to Singapore, in effect, where the laws of Singapore are not the laws relevant to the dispute, or where the only connection between the dispute and Singapore is that both parties have elected to apply the laws of Singapore to the dispute.

## Conclusion: the SICC and Intellectual Property

In relation to both domestic and international intellectual property ("**IP**") disputes, the SICC is poised to offer impartial and expeditious judgements due to its streamlined procedures and the expertise the SICC's panel of Judges, which possesses the knowledge and skill necessary to deal with complex and technical IP matters; such as cross-border enforcement of IP rights.<sup>12</sup>

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<sup>9</sup> *Ibid.*

<sup>10</sup> *Ibid.*, at page 20, para 42, see also the *Reciprocal Enforcement of Commonwealth Judgments Act* (Cap. 264) and *Reciprocal Enforcement of Foreign Judgments Act* (Cap. 265).

<sup>11</sup> *Ibid.*, at page 5, para 4(e).

<sup>12</sup> *Asia IP*, "Singapore Pushes Towards ICC", dated 28 February 2014. Available at URL: <http://www.asiaiplaw.com/article/25/1712/>, as at 20 January 2015.

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The prominence of the SICC in hearing IP disputes is further projected to blossom given the advent of strong Asian brands from China, India, South Korea and ASEAN, which may then lead to clashes with their Western competitors (examples include the high-profile suits between Samsung and Apple, and Huawei and Cisco).

In closing, the SICC offers a promising glimpse into the future, and we eagerly await to see the results of how the SICC will affect and contribute to the growth of IP rights and dispute resolution not just in Singapore, but globally

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*This article is an introduction to the newly formed Singapore International Commercial Court (SICC), and is not intended to be comprehensive nor should it be construed as legal advice.*

*Should you have any queries as to how this may affect your business, please do not hesitate to email us.*

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