

MEDIA RELEASE

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IPOS ENHANCED MEDIATION PROMOTION SCHEME SEES FIRST SUCCESS CASE, SPANNING MULTIPLE JURISDICTIONS

Singapore, 12 November 2019 – The Intellectual Property Office of Singapore (IPOS) saw its first successful multi-jurisdictional IP mediation under the Enhanced Mediation Promotion Scheme (EMPS), which was launched on 1 April 2019. The case involved a dispute over Singapore and foreign IP rights between an American company, Aftershokz, LLC and a Thai businessman, Mr Suravit Kongmebhol.¹

The dispute was resolved under the auspices of the World Intellectual Property Organization (WIPO) Arbitration and Mediation Center, which has its only overseas office in Singapore. Both parties flew to Singapore for the mediation. Under the EMPS, the parties have received funding of \$12,000 for the case, which fully subsidised the administration fee, mediator's fees and expenses, and partially defrayed the parties' mediation-related lawyer fees and disbursements.

Aftershokz, LLC and Mr Kongmebhol opted for mediation to resolve their disputes at IPOS over the registration of the marks "AfterSHOKZ", "OPTISHOZ" as well as "SHOKZ". Both parties further agreed to extend the scope of the mediation to foreign IP rights in Vietnam, Indonesia, Philippines, Malaysia and Thailand. The parties reached a win-win outcome after 19.5 hours of mediation, and ended with a settlement agreement after midnight into the next day. (See [weblink](#) for more details of the case)

Alternative dispute resolution is becoming increasingly popular amongst businesses and individuals looking to resolve their disputes more effectively and satisfactorily². Mediation offers a more cost-effective and swifter option to resolving IP disputes globally and further helps maintain relationships between the parties. Typically, litigation in a similar case before the Registrar of Trade Marks would have taken an average of two or more years to resolve³, and several-fold costs to file evidence and submissions in five sets of proceedings in Singapore and obtain the Registrar's decisions after hearings.

¹ Mediation is a confidential process. However, to qualify for funding under the EMPS, parties must consent to being named in publicity materials for the case, excluding details of settlement terms.

² WIPO Caseload Summary 2018: WIPO Arbitration and Mediation Center has seen an increase of about 70% of mediation, arbitration and expert determination cases during the period from 2009 – 2018.

³ Based on the time that parties usually take to compile their evidence.

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Other jurisdictions may take even longer and result in uneven global outcomes in relation to the same or similar marks.

Both parties expressed satisfaction with the process and its effectiveness. Mr Kongmebhol said: “I am very glad that mediation in Singapore has helped us resolve the existing disputes and achieved a win-win outcome for all parties.” Mr Wan Jingchun, IP Manager and Ms Daisy Gong, IP Consultant of Aftershokz, LLC said: “We are very satisfied with the mediation. The mediator was very professional and responsible, and made great efforts to ensure the success of the mediation. The professionalism and execution ability of our lawyers are extremely worthy of recognition and played a decisive role in the outcome of the mediation. The success of the mediation is very significant to us. Apart from settling existing disputes, the settlement ensured the protection of our company’s brand image and the rapid development of our business in Southeast Asia.”

Ms Joyce Tan (陈淑卿), Managing Director of Joyce A. Tan & Partners LLC (领欣律师事务所), also the mediator for the case, said: ““This was a wonderful opportunity for mediation to do its magic! The happy outcome for both disputants could not have been achieved through conventional contentious proceedings. It covered multiple forms of trade marks across different countries and resolved contentious proceedings pending in several jurisdictions. Parties were empowered to take a pragmatic and commercially meaningful approach to concluding the matter, and were able to move forward in their businesses with certainty on where they stood relative to each other. What is there not to like about mediation?”

Mr Mark Lim (林方前), Director of Hearings and Mediation Department in IPOS (新加坡知识产权聆讯与调解司司长) said: “With globalisation of trade and the increasingly international creation and exploitation of IP, disputes over IP rights often span multiple jurisdictions and involve sensitive information and dynamic relationships. This case is only one of others worldwide, where parties with IP issues were able to amicably resolve their differences through mediation. We are pleased that in this case, the parties, neither of whom are Singaporean, worked out an amicable settlement in Singapore for their IP rights in six ASEAN member states. To our knowledge, the EMPS is the first scheme in the world which directly reimburses parties’ mediation-related costs. Entrepreneurs and enterprises in Singapore, as well as foreign parties with disputes at IPOS can use this scheme for a business-oriented and cost-effective approach towards resolving their IP disputes globally.”

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With Asia's rise in innovation and the region accounting for more than two-thirds of global IP filing activity in 2018⁴, Singapore embarked on legislative changes to its IP regime, providing innovation-driven enterprises with greater access to alternative routes for IP dispute resolution. In November 2017, the Mediation Act came into force, making it easier for mediated settlement agreements to be enforced, further advancing the attractiveness of mediation as a fair and cost-effective route. Singapore also led the Singapore Convention on Mediation, the first United Nations treaty to be named after Singapore, that provides a uniform international framework to enforce mediated agreements. It was signed by 46 countries in August 2019 and there have since been more signatories, bringing the total number to 51.

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About IPOS

The Intellectual Property Office of Singapore (IPOS) is a government agency under the Ministry of Law. Our mission is to use our intellectual property (IP) expertise and networks to drive Singapore's future growth, and build Singapore into a hub where innovative enterprises use IP and intangible assets to grow. More information on IPOS can be found at www.ipos.gov.sg.

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⁴ World Intellectual Property Indicators 2019

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