Mini-Madrid for ASEAN?

Mr. Soh Kar Liang
Director
Ella Cheong LLC
Scope

* ASEAN environment
* ASEAN initiatives
* Madrid Protocol
* Pan-ASEAN system

ASEAN environment

* Dynamic & growing
* Diverse legally and culturally
* ‘ASEAN way’: informal, consensus-based, compromise
ASEAN Initiatives

* 1995
  * ASEAN Regional Trademark Office
* 2004-2010 IPR Action Plan
  * Harmonize national procedural requirements
* 2011-2015 IPR Action Plan
  * Initiate accession to Madrid Protocol
* 2016-2025 IPR Action Plan
  * Progressing with accession to Madrid Protocol
  * Improving IP infrastructure

Madrid Protocol

Pros

* Single application form
* Multi-jurisdictional reach
* Minimum standards set
* Reduced agency fees

Cons

* Central attack
* Increased official fees
* Smaller ASEAN voice
Readiness for common platform

* Convergence by accession
  * Ready for single application form
  * Ready for multi-jurisdictional system
  * Ready for minimum standards
  * Ready for reduced agency fees
* Momentum of regional cooperation
  * AWGIPC
  * ASEAN TMView
  * ASEAN TMClass
  * Madrid Protocol pros without cons?

Indications from the ground

* ASEAN nationals interested in protection in ASEAN?
* How do ASEAN nationals seek protection in ASEAN?
  * Direct
  * Incidental Madrid Protocol
  * Deliberate Madrid Protocol
* Demographics of these ASEAN nationals?
* Is there a better way?
Indications from the ground

SG applications from PH/VN

Derived from IPOS data sources

Indications from the ground

IR applications designating SG from PH/VN

Derived from WIPO data sources
Indications from the ground

ASEAN designations by ASEAN nationals
(as percentage of total designations)

Derived from WIPO data sources

Exploring Process Options

Madrid Protocol Application

Base application (Receiving office)

International application (Receiving office)

International registration (International bureau)

Examination/Provisional refusal (Local office)

Grant/Refusal (Local office)
Exploring Process Options

Pan-ASEAN Application

Regional application (Receiving office)

Examination/Provisional refusal (Local office)

Grant/Refusal (Local office)

Exploring Process Options

PCT Application

International application (Receiving office)

International search & examination (Appointed office)

National phase entry (Local office)

Local examination (Local office)

Grant/Refusal (Local office)
Exploring Process Options

Pan-ASEAN Application

Regional application (Receiving office)

Examination/Provisional refusal (Local office)

Grant/Refusal (Local office)

Pan-ASEAN System Possibilities

* Registry format
  * Computerization
  * Cloud virtualization
* Governing administration
  * Virtual office
  * ASEAN secretariat
  * AWGIPC directorate
  * Distributed office
Pan-ASEAN System Possibilities

* Beneficiaries
  * ASEAN nationals
  * Nexus with ASEAN member states
  * Not targeted at non-ASEAN nationals

* Systemic/procedural customizations
  * Classification adaptations
  * No base application
  * Decentralization
  * Fee structure attractive to ASEAN nationals

Rationalising Official Fees

<table>
<thead>
<tr>
<th>Countries</th>
<th>National application</th>
<th>Application in 1 class</th>
</tr>
</thead>
<tbody>
<tr>
<td>Philippines</td>
<td>PHP3,760 (≈ USD80)</td>
<td></td>
</tr>
<tr>
<td>Singapore</td>
<td>SGD341 (≈ USD245)</td>
<td></td>
</tr>
<tr>
<td>Vietnam</td>
<td>VND840,000 (≈ USD40)</td>
<td></td>
</tr>
</tbody>
</table>
### Countries Receiving Office Basic Fee (CHF653) Initial Overheads

<table>
<thead>
<tr>
<th>Countries</th>
<th>Receiving office</th>
<th>Basic fee (≈)</th>
<th>Initial overheads (≈)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Philippines</td>
<td>PHP2,182</td>
<td>PHP32,000</td>
<td>PHP34,182 (USD720)</td>
</tr>
<tr>
<td>Singapore</td>
<td>SGD250</td>
<td>SGD920</td>
<td>SGD1,170 (USD34)</td>
</tr>
<tr>
<td>Vietnam</td>
<td>VND1,500,000</td>
<td>VND14,583,000</td>
<td>VND16,083,000 (USD725)</td>
</tr>
</tbody>
</table>

### Rationalising Official Fees

#### International Application

<table>
<thead>
<tr>
<th>Countries</th>
<th>1st Class</th>
<th>Additional Class</th>
</tr>
</thead>
<tbody>
<tr>
<td>Philippines</td>
<td>CHF95 (≈ PHP4,530)</td>
<td>CHF95 (≈ PHP4,530)</td>
</tr>
<tr>
<td>Singapore</td>
<td>CHF272 (≈ SGD383)</td>
<td>CHF272 (≈ SGD383)</td>
</tr>
<tr>
<td>Vietnam</td>
<td>CHF101 (≈ VND2,260,000)</td>
<td>CHF84 (≈ VND1,880,000)</td>
</tr>
</tbody>
</table>
Rationalising Official Fees

* Pan-ASEAN application with
  * Lower RO handling fee (RO currency)
  * Lower or no basic fee (RO currency)
  * Lower designation fee (LO currency periodically translated to RO currency)

Thank you!