

The results are out! This year, ATMD Bird & Bird has a record number of lawyers being nominated as leading lawyers in Asialaw Leading Lawyers 2009.

Kudos to the following nominees:

- Alban Kang (Intellectual Property)
- Christopher Lau (Dispute Resolution)
- Cyril Chua (Intellectual Property)
- Edmund Kok (Intellectual Property)
- Koh Chia Ling (IT, Telecommunications & Media, Intellectual Property)
- Naresh Mahtani (Real Estate & Construction)
- Sheena Jacob (Intellectual Property)

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Enforcement of Arbitration Agreement

Elizabeth Xue



The court in *Cars & Cars Pte Ltd v Volkswagen AG and Another* dealt with an application made by the 2nd

Defendant, Volkswagen Group Singapore Pte Ltd, to stay all further proceedings in the plaintiff's action, in favour of arbitration.

The issue was whether the dispute should be referred to arbitration and consequently whether the proceedings in court should be stayed.

The Plaintiff argued that the Arbitration Act ("AA") would apply but the 2nd Defendant argued that the International Arbitration Act ("IAA") would apply instead because parties had intended that this was going to be an international arbitration when they entered into the Arbitration Agreement.

Under s 6 of the AA, the court has a discretion whether or not to stay proceedings in favour of arbitration. Under s 6 of IAA, the court is bound to stay proceedings in favour of arbitration if the Arbitration Agreement was valid.

The Arbitration Agreement stated that the Rules to be adopted would be the SIAC Rules "for the time being in force".

The court held that where the SIAC Rules 2007 are adopted, the arbitration in question will be treated as an international arbitration and the IAA will be the governing regime.

More...

Singapore Court of Appeal Considers Revocation and Invalidation Provisions in the Trade Marks Act

Ankur Gupta



In the recent case of *Wing Joo Loong Ginseng Hong (Singapore) Co Pte Ltd v Qinghai Xinyuan Foreign*

Trade Co Ltd and Another [2009] SGCA 9, the Court of Appeal ("CA") decided on various issues surrounding trade mark revocation and invalidation.



The Registered Mark bore a picture of a rooster within a stylised flower border, registered in respect of cordyceps. It was

argued that the Registered Mark should be revoked because it had become a



common name in the trade due to the proprietor's acts or inactivity, or invalidated because it had become customary in the current language or in the bona fide and established practices of the trade.

The CA found there was insufficient evidence to revoke or invalidate the Registered Mark. It also held that the court did not have any residual discretion not to grant relief once the grounds for revocation and/or invalidation were made out.

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Employment Act - Termination with Notice now subject to MOM intervention for "Unfair Dismissal"

Susan de Silva



The Employment Act (EA) was amended with effect on 1 January 2009 to "update the EA to ensure that it

remains relevant and responsive to the changing labour market conditions".

One of the changes made to the EA was the introduction of a new definition for the term "dismiss". "Dismiss" has now

been defined to mean "the termination of the contract of service of an employee by his employer, with or without notice and whether on the grounds of misconduct or otherwise."

With this definition, all terminations of employment, even with notice, are subject to intervention by the Ministry of Manpower under EA section 14(2) on a complaint by the terminated employee that he has been "dismissed without just cause or excuse by his employer."

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