

### **Inputs for draft reference document on the exception regarding prior use**

Singapore provides for the prior use exception under [section 71 of the Singapore Patents Act](#). Before the priority date (i.e. date on which the patent application for an invention is filed), if a person in Singapore has either:

- done, in good faith, an act which would constitute infringement of the patent if it were in force; or
- made, in good faith, effective and serious preparations to do such an act;

he is entitled to do or continue to do such an act notwithstanding the grant of the patent. However, the person may not grant a licence to another person to do the same acts.

Following is a reference to Section 71 of the Singapore Patents Act

#### **Right to continue use begun before priority date Section**

71 –

(1) Where a patent is granted for an invention, a person who in Singapore before the priority date of the invention -

(a) does in good faith an act which would constitute an infringement of the patent if it were in force; or

(b) makes in good faith effective and serious preparations to do such an act, has the right to continue to do the act or, as the case may be, to do the act, notwithstanding the grant of the patent.

(2) The right conferred by subsection (1) shall not extend to granting a licence to another person to do the act.

(3) If the act was done, or the preparations were made, in the course of a business, the person entitled to the right conferred by subsection (1) may -

(a) authorise the doing of that act by any partner of his for the time being in that business; and

(b) assign that right, or transmit it on death (or in the case of a body corporate on its dissolution) to any person who acquires that part of the business in the course of which the act was done or the preparations were made.

(4) Where a product is disposed of to another in exercise of the rights conferred by subsection (1) or (3), that other and any person claiming through him may deal with the product in the same way as if it had been disposed of by the registered proprietor of the patent.

**Inputs for document compiling information on patent law provisions and practices that contribute to effective transfer of technology**

Singapore implemented the National IP Protocol in 2018 to facilitate technology transfer from the government to commercial enterprises and start-ups. The protocol brings about the following benefits:

- i) expedites effective IP commercialisation for companies through streamlined IP practices at research institutes, universities and public agencies,
- ii) creates greater flexibility for IP terms that cater to business needs and
- iii) balances the commercial interests of businesses with the national interest of creating maximum value from publicly funded R&D.

With the Singapore National IP Protocol, public agencies have a standard and streamlined approach to managing intellectual property from publicly funded R&D, with the flexibility to grant exclusive or nonexclusive licences, and even assign IP to industry to encourage IP commercialisation.

Another mechanism for encouraging the sharing and exploitation of patented technology is through licensing of patents. Section 53 of the Singapore Patents Act provides the license of rights scheme which encourages voluntarily licensing of technology and knowledge exchange, as the patent owners are offered a significant reduction of renewal fees. Third parties are able to search information on patents with such voluntary licensing offers on the IPOS IP2SG website.