



# UNDERSTANDING THE RCEP INTELLECTUAL PROPERTY CHAPTER:

## BENEFITS FOR BUSINESSES

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# FOREWORD

The signing of the Regional Comprehensive Economic Partnership (RCEP) at the 4th RCEP Leaders' Summit on 15 November 2020 between the 10 ASEAN Member States and five ASEAN FTA Partners (Australia, China, Japan, New Zealand and the Republic of Korea) is a significant milestone. Amidst the COVID-19 pandemic, the 15 RCEP Participating Countries had persisted, remained steadfast and committed to deepen our economic integration in the region.

After eight years, the RCEP is today the world's largest FTA to-date, involving a diverse group of countries. As a modern, comprehensive, high-quality, and mutually beneficial economic partnership, it will facilitate the expansion of regional trade and investment and contribute to global economic growth and development. The RCEP will open up new opportunities and bolster the market and employment opportunities for businesses and people in the region.


Singapore looks forward to ratification by all RCEP Participating Countries so that the Agreement may enter into force as soon as possible.

It is our hope that this practical guide to utilising the RCEP will be helpful to Singapore businesses.

**Ms Sulaimah Mahmood**

Senior Director, ASEAN & South East Asia and Oceania, Ministry of Trade and Industry  
Singapore's Chief Negotiator for RCEP

# INTRODUCTION

A stylized map of Southeast Asia and Oceania in light blue. Overlaid on the map are six circular orange markers, each containing a national flag: China (top left), South Korea (top center), Japan (top right), Cambodia (center left), Australia (center right), and New Zealand (bottom right).

The Regional Comprehensive Economic Partnership (RCEP) is a free trade agreement (FTA) among Singapore and 14 other countries, including all 10 Association of Southeast Asian Nations (ASEAN) member countries, as well as Australia, New Zealand, China, Japan, and South Korea. Together, these countries account for about 30 percent of both global GDP and population. Negotiations were concluded in November 2019 and the RCEP was signed on 15 November 2020. RCEP will enter into force 60 days after ratification by six ASEAN Member States (AMS) and three ASEAN FTA Partners.

RCEP generates new and exciting prospects for businesses seeking to reach untapped markets abroad. In addition to ensuring that Singapore service providers, investors and investments are treated equitably and fairly, RCEP will provide greater transparency on the rules and regulations that apply to foreign investments and introduces new opportunities for businesses to engage in digital trade.

## What is Intellectual Property?

The World Intellectual Property Organization (WIPO) broadly defines IP as creations of the mind. Essentially, IP is the idea behind a product, process, or creative work. The success of a business depends on the power of its ideas. Well-defined and strongly enforced IP rights allow enterprises to protect their branding, products, ideas, and, ultimately, their profits. Businesses are incentivised to invest time and effort into developing new products and processes, with the confidence that they would reap the benefits of their investment if commercially successful.

Conversely, failure to protect business ideas or IP would allow others to quickly copy and market innovations that make businesses unique and provide value to their customers, thus eroding competitive edge. Ineffective enforcement of IP rights can also lead to the proliferation of unsafe, illegal or counterfeit products, putting firms and consumers at risk.

In most cases, rights are not automatically conferred whenever an individual or a firm generates an idea. IP is not automatically granted across the whole world at once. Neither is protection given forever. Firms have to take proactive steps to ensure that their ideas are granted IP rights. An exception can be found in copyright, where original literary, musical, or artistic works are automatically granted protections, as well as the layout designs of integrated circuits, which are automatically protected in many but not all jurisdictions when first commercialised.

## Why is RCEP Significant?

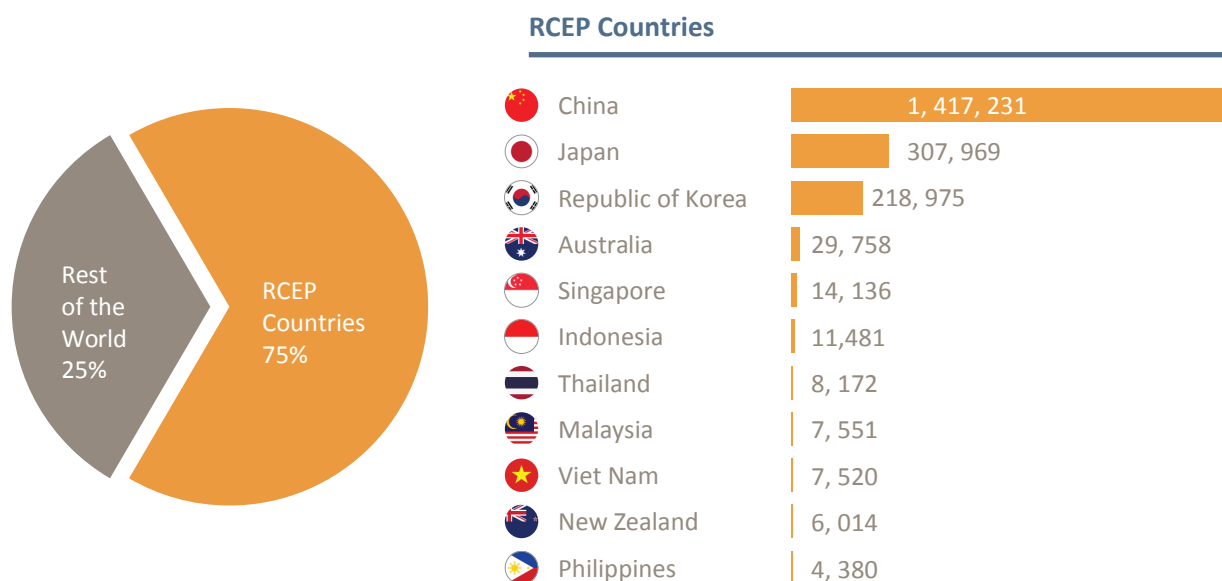
RCEP is a comprehensive and wide-reaching agreement with a number of short-term and long-term benefits to businesses in Asia. Upon entry into force, RCEP will be the world's largest trading bloc. It would increase economic linkages between member states, and facilitate more trade with fewer barriers. This is especially so for RCEP countries who have no previous Free Trade Agreements (FTAs) with each other. Singapore businesses also stand to benefit from the simplified and standardised rules.

Not all FTAs have chapters dedicated to IP protection. RCEP, with an extensive IP chapter, signals the importance of IP in the region. The expanded and standardised protections stipulated by RCEP will enhance IP regimes in the region, which will benefit business and encourage innovation. For Singapore businesses, they can be confident that innovation will be rewarded and branding protected.

### *Intellectual Property in RCEP*

RCEP countries are a major source of IP. In 2019, out of over three million patent applications, over two-thirds came from RCEP countries. As major originators of IP, having effective regional cooperation and shared levels of protection and enforcement between RCEP countries is essential. Businesses operating in the ASEAN region stand to benefit from improved and standardised rules on IP protection.

#### Total Patent Applications in 2019



Source: WIPO

# TYPES OF INTELLECTUAL PROPERTY



## Copyright and Related Rights

Copyright grants authors, performers, artists, and recording artists control over their creative works. This provides creatives control over the products of their labour, as the original producer is granted the exclusive right to permit reproduction of the given work. Copyright is generally granted for a period of time, usually the life of the creator plus 50-70 years after death, after which the work enters into the public domain. Once something “falls into the public domain”, previously copyrighted materials are freely available for use by anyone.



## Trademarks

A trademark is, in essence, what makes a specific brand recognisable. This might constitute a specific word, symbol, picture, type of packaging, or taste of a specific product. A trademark might distinguish a particular product or certain certifications, as seen in eco-certification labels. A trademark, once registered in a specific jurisdiction, grants exclusive rights over the elements – like the branding, logo, or taste of a product – that make a product distinct. Trademarks are not automatically protected. Businesses must proactively protect their trademark rights, registering what they seek to protect with the relevant authorities. When a trademark is granted, exclusive rights over the trademark is granted to the business for a set period of time, after which it must be renewed.



## Geographical Indications

A Geographical Indication (GI) is a symbol or certification indicating that a product comes from a specific geographic area. This type of IP protection is especially common for specialty food and beverage products, many of which come from Europe. Geographical Indications imply that the products possess qualities or a reputation that depends on the place of origin. This prevents producers from outside Scotland, for example, from labelling their products as Scotch Whisky.



## Patents

A patent, upon registration with the relevant authorities, grants exclusive legal right to make, use, or sell an invention for a set period of time. Generally, patentable inventions include new products, new processes, or a new and inventive step in a process. Patents are not automatically granted – businesses must apply for patents, and must prove that the invention, process, or production method is sufficiently innovative to qualify for a patent. Patents expire and enter the public domain after a set period of time that varies depending on category of patent and jurisdiction. Though precise rules vary by country, patents are generally granted for a period of twenty years.



## Designs

Also known as an industrial design, a design is a form of IP certification that protects the visual features of a product, such as shape or pattern. This type of IP protects products with a distinctive and recognisable look. Note that a registered design does not protect the functional aspects of a product – which would fall under the scope of a patent – only the aesthetic features. Businesses must apply to register their design, demonstrating that the look of their product is sufficiently distinct to qualify for protection.



## Plant Varieties

A Grant of Protection for a Plant Variety protects newly developed plant varieties. This prevents unauthorised parties from producing, selling, importing or exporting the plant variety. However, the plant variety may still be used for non-commercial purposes, such as experimentation. In most jurisdictions, the plant variety must be registered with the IP authorities to be protected.



### Trade Secrets and Confidential Information

A Trade Secret is secret information that has commercial value like a secret recipe or manufacturing process. Confidential Information includes information that is not in the public domain, like a company's financial statements. There is no registration process for Trade Secrets and Confidential Information, but those with access to this information are obliged to keep the information secret under law. Those who divulge the secret information can face civil proceedings, as well as criminal prosecution if certain conditions are met. Courts evaluate the severity of the breach by looking at the measures taken to keep the information secret, like non-disclosure agreements and

password protection, as well as the value of the secret information.



### Layout Designs of Integrated Circuits

The Layout Design of an Integrated Circuit is eligible for protection when judged to be sufficiently new and the result of the creators' intellectual efforts. In many countries, including Singapore, layout designs of integrated circuits are automatically protected upon the first commercial exploitation, meaning the first to bring the integrated circuit to market is the right holder.

## CURRENT INTELLECTUAL PROPERTY REGIMES IN RCEP COUNTRIES

RCEP Jurisdiction	IP Authorities	Enforcement Mechanisms
<b>Singapore</b>	The Intellectual Property Office of Singapore (IPOS – <a href="http://www.ipos.sg">www.ipos.sg</a> ) is the national authority that registers and is responsible for the administration of IP rights in Singapore. IPOS helps businesses use IP and intangible assets (IA) to grow and is committed to building Singapore into an international IP/IA hub. IPOS is a statutory board under the Ministry of Law.	Aggrieved parties can request alternative dispute resolution mechanisms like mediation, or go through the courts in more serious cases. <sup>1</sup> In 2019, Singapore's Legislature passed the Intellectual Property Dispute Resolution Act, which grants the High Court exclusive jurisdiction over IP disputes. The Act also introduces a fast-track option for disputes to reduce the cost and time needed to litigate IP disputes. <sup>2</sup>
<b>ASEAN</b>	ASEAN Member states collaborate on IP issues through the ASEAN Working Group on Intellectual Property Working Group, composed of IP offices from all ten ASEAN members. The ASEAN IP Portal is a digital resource where stakeholders can find information on IP regimes, as well as access the ASEAN Patent Examination Cooperation (ASPEC) platform, which allows for information on patents to be shared between participating IP offices. All ASEAN members but Myanmar participate in the program. <sup>3</sup>	Enforcement is on a country-by-country basis, though ASEAN suggests best practices for legal and administrative systems in enforcing IP rights. ASEAN member state enforcement systems have varying capacities. <sup>4</sup>

<sup>1</sup> "Hearings and Mediation," Intellectual Property Office of Singapore, 2020.

<sup>2</sup> Intellectual Property (Dispute Resolution) Act No. 23, 13 September 2019.

<sup>3</sup> "About," ASEAN Intellectual Property Portal, 2021.

<sup>4</sup> "The ASEAN Intellectual Property Rights Action Plan 2016-2025: Meeting the Challenges of "One Vision, One Identity, One Community" Through Intellectual Property," Association of Southeast Asian Nations, 5 December 2017.



<b>Australia</b>	Intellectual Property Australia (IPA) is the government body responsible for the administration of IP rights in the country. IPA provides tools to apply for the registration of IP protections, as well as an online database where stakeholders can access information on protected patents, trademarks, and other forms of IP. <sup>5</sup>	In the event of a violation of IP rights, the aggrieved party can pursue one of several resolution methods. This includes mediation and arbitration, or parties can bypass these alternative resolution methods and begin proceedings in the legal system. <sup>6</sup>
<b>China</b>	The registration of trademarks and granting of patents are administered by the China National Intellectual Property Administration (CNIPA), while copyright registration is managed by the Copyright Protection Center of China (CPCC). <sup>7 8</sup> Those filing to protect IP in China must either have a business entity in China or have an in-country agent or lawyer file on their behalf. <sup>9</sup>	IP rights enforcement in China can take the form of both administrative actions and civil or criminal litigation. IP enforcement is undertaken at the state, provincial, and municipal levels by authorities. Provincial and municipal authorities are responsible for administrative enforcement, while civil and criminal litigation is handled at the state level. <sup>10</sup>
<b>Japan</b>	Japan's IP regime is administered by the Japan Patent Office (JPO). Those seeking to protect their IP must submit applications through JPO's Digital Access Service. <sup>11</sup> The Japanese government also runs an online platform called J-PlatPat, a Japanese-language database of protected IP in the country. Copyright must be registered separately with the Japan Copyright Office. <sup>12</sup>	Created in 2016, the Intellectual Property High Court is a purpose-built judicial system meant to shorten civil and criminal procedures related to IP rights violations. Alternative dispute resolution mechanisms are available for less serious IP infringements. <sup>13</sup>
<b>South Korea</b>	The Korean Intellectual Property Office (KIPO) is responsible for administering patents and trademarks in South Korea, while the Korea Copyright Commission is responsible for copyright registration and dispute resolution. Jointly administered with the Korean Institute of Patent Information, KIPO manages an online patent and trademark database called the Korea Intellectual Property Rights Service. <sup>14</sup>	Enforcement of IP rights in Korea involves either mediation by committee, by civil action presided over by KIPO tribunal or district court, or criminal prosecution in the criminal courts. <sup>15</sup>
<b>New Zealand</b>	The Intellectual Property Office of New Zealand (IPONZ) is responsible for managing the country's IP regime. This includes the maintenance of a publicly-accessible online IP database, as well as an online service to register IP. <sup>16</sup>	The enforcement of IP rights may take one of several forms depending on the relevant legislation and severity of infringement. This may include arbitration, mediation, or civil and criminal litigation. <sup>17</sup>

<sup>5</sup> "About Us," Intellectual Property Australia, 2021.

<sup>6</sup> "Understanding Infringement," Intellectual Property Australia, 2021.

<sup>7</sup> "Laws and Regulations," China National Intellectual Property Administration, 2021.

<sup>8</sup> About Us," Copyright Protection Center of China, 2017.

<sup>9</sup> "Protecting Your IP in China," Government of Canada, 10 July 2020.

<sup>10</sup> Liu, Andrew. "Patent Litigation in China: An Overview," Thomson Reuters Practical Law, 1 May 2020.

<sup>11</sup> "Outline of Right Obtainment," Japan Patent Office, 2021.

<sup>12</sup> "Overview of the Copyright System," Agency for Cultural Affairs, Government of Japan, 2021.

<sup>13</sup> "Handbook for Trial and Appeal System," Japan Patent Office, December 2020.

<sup>14</sup> "Overview of the Patent System in Korea," Korean Intellectual Property Office, 27 May 2016.

<sup>15</sup> "Trials and Appeals," Korean Intellectual Property Office, 18 February 2021.

<sup>16</sup> "Overview," New Zealand Intellectual Property Office, 2021.

<sup>17</sup> "Legislation," New Zealand Intellectual Property Office, 2021.



# CHANGES TO INTELLECTUAL PROPERTY RIGHTS UNDER RCEP

## Impact of RCEP IP Benefits on Existing IP Regime in RCEP Partner Countries

Singapore has been a global leader in the protection and enforcement of IP. It has signed on to a number of trade agreements that have enhanced the levels of IP protection granted to companies. In addition to ASEAN-wide initiatives on IP, the region has made IP commitments in two agreements reviewed here: the ASEAN-Australia-New Zealand Free Trade Area (AANZFTA) and RCEP.<sup>18</sup> This section compares the benefits from both.

AANZFTA entered into force in 2010. The agreement sought to reduce tariffs and barriers and boost market liberalisation in signatory countries. While AANZFTA made significant reductions in tariffs, it offered only modest IP protection when compared to RCEP.



### Joining Multilateral IP Agreements

AANZFTA acknowledges seven multilateral treaties that are key to achieving the IP protection laid out in the agreement, but does not require signatories to ratify or accede to those treaties. In comparison, RCEP makes ratifying many of these treaties mandatory for member countries. These treaties include the WIPO Copyright Treaty, the WIPO Performances and Phonograms Treaty, the Paris Convention for the Protection on Industrial Property, and more.<sup>19</sup>

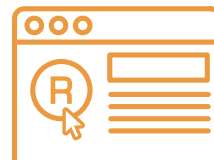
Acknowledging the variability between signatory countries in terms of level of development and capacity, RCEP lays out concrete timelines by which countries must ratify or accede to the treaties on a case-by-case

basis. Cambodia, Laos, Malaysia, Thailand and Vietnam are given between three and ten years to follow through, depending on the specific treaty in question. Singapore has already ratified or acceded to all multilateral agreements required by RCEP.



### Digital Access to Information

While AANZFTA has no requirement to make information on IP registration available to stakeholders, RCEP greatly facilitates access to this information. The agreement stipulates that every member country must construct or have available accessible online databases containing information on trademark applications and registrations. Publicly-accessible IP databases will help businesses make more informed decisions and reduce market access barriers for MSMEs.



### Digital Platforms to Register Intellectual Property

RCEP requires that countries make available digital platforms to apply for patents, trademarks, and industrial designs. These systems must provide written reasoning for any refusal to grant the application and an opportunity to appeal against such a decision. The relevant authorities must also provide interested parties with the opportunity to oppose a trademark, patent, or Geographic Indication. This makes registering IP with the relevant authorities easier and faster.

<sup>18</sup> RCEP is the first ASEAN agreement with an IP Chapter that will raise standards of IP protection and enforcement across all RCEP countries.

<sup>19</sup> These agreements are as follows: the Paris Convention for the Protection of Industrial Property, the Berne Convention for the Protection of Literary and Artistic Works, the Patent Cooperation Treaty, the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, the WIPO Copyright Treaty, the WIPO Performances and Phonograms Treaty, and the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who are Blind, Visually Impaired, or Otherwise Print Disabled. Parties must also endeavour to ratify or accede to the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure.



### Protection of Domain Names

RCEP requires that countries have a procedure for settling disputes over internet domain names modelled after the Internet Corporation for Assigned Names and Numbers system. This requires RCEP countries to establish dispute resolution mechanisms that are fair and time-efficient while allowing for such disputes to be settled by the courts with appropriate remedies where justified.



### Enhanced Border Measures

RCEP requires that countries have procedures in place to allow for IP right holders to request that authorities seize suspected counterfeit or pirated goods at the point of entry into the country. The goods may either be released if no infringement is found or ordered to be destroyed by the competent authorities. There is no such requirement in AANZFTA, and the policies and procedures vary among the countries.



### Renewed Efforts Against Piracy and Counterfeiting

RCEP requires that countries provide for civil remedies and criminal prosecution where bad actors seek to make a profit from violating copyright or trademark counterfeiting. This requirement does not exist in AANZFTA. Under RCEP, a copyright owner may initiate civil procedures and request criminal prosecution for commercial-scale IP violations.

## Likely Legislative Amendments Under RCEP in ASEAN Member States

ASEAN Member State	Examples of Current IP legislation	Likely amendments under RCEP
<b>Brunei Darussalam</b>	Patents Order (2011); Emergency Industrial Designs Order (2000); Trade Marks Act (Rev. 2000); Copyright Order (1999); Plant Varieties Order (2015)	Extension of copyright to encrypted satellite television broadcasts; Amendments to allow for damages to be paid by trademark or copyright infringer to affected party; Amendments to extend IP rights to digital assets and domain names.
<b>Cambodia</b>	Law on Patents, Utility Models, and Industrial Designs (Rev. 2006); Law Concerning Marks, Trade Names, and Acts of Unfair Competition (2002); Law on Copyright and Related Rights (2003)	Extension of trademark protections to sound marks; Legal protection of electronic Rights Management Information (RMI).
<b>Indonesia</b>	Law No. 13 on Patents (2016); Law No. 31 on Industrial Designs (2000); Law No. 20 on Marks and Geographical Indications (2016); Law No. 28 on Copyright (2014)	Extension of copyright to encrypted satellite television broadcasts; Extension of legal procedures against those who remove RMI from copyrighted materials; Amendments to extend IP rights to digital assets and domain names.
<b>Lao PDR</b>	Law No. 38 on Intellectual Property (2017)	Legal protection of electronic RMI; Amendment to allow punitive fines for wilful IP violations; Amendments to extend IP rights to digital assets and domain names.
<b>Malaysia</b>	Patents Act (1983); Industrial Design Act (1996); Trade Marks Act (2019); Copyright Act (1987)	IP laws are generally sufficient to meet updated RCEP standards.
<b>Myanmar</b>	Patent Law No. 7 (2019); Industrial Design Law No. 2 (2019); Trade Mark Law No. 3 (2019); Copyright Law No. 15 (2019)	Extension of copyright to encrypted satellite television broadcasts; Extension of trademark protections to sound marks; Legal protection of electronic RMI; Amendments to allow right holders to request destruction of counterfeit copyright and trademarked materials; Amendments to extend IP rights to digital assets and domain names.
<b>Philippines</b>	Republic Act No. 8293 (2015)	Extension of trademark protections to sound marks; Legal protection of electronic RMI.
<b>Singapore</b>	Patents Act (Rev. 2005); Registered Designs Act (Rev. 2005); Trade Marks Act (Rev. 2005); Copyright Act (Rev. 2006 )	IP laws are sufficient to meet updated RCEP standards.
<b>Thailand</b>	Patent Acts No. 1, 2, and 3 (Rev. 1999); Trademark Acts No. 1, 2, and 3 (Rev. 2016); Copyright Acts No. 1, 2, and 3 (Rev. 2016)	Legal protection of electronic RMI.
<b>Viet Nam</b>	Law No. 50/2005/QH11 (2005)	Extension of copyright of encrypted satellite television broadcasts to include non-Vietnamese broadcasts; Amendments to extend IP rights to digital assets and domain names.

Note that Australia, China, Japan, New Zealand, and South Korea already have relatively stringent IP regimes. As most provisions in the RCEP IP chapter are in the form of broad provisions as opposed to requiring specific actions, the non-ASEAN RCEP countries' IP regimes already meet RCEP standards. This means that these countries will need few, if any, legislative amendments to meet the minimum standards as required by RCEP.

## Enforcement of Intellectual Property Rights After RCEP

RCEP enhances IP protection by ensuring that right holders have the option to request authorities take action against IP infringers. The agreement requires that all member countries make civil and criminal judicial procedures available to right holders who request them.

### Civil and Criminal Remedies

RCEP requires that judicial authorities have the ability to award damages, order the destruction of infringing materials, and assess appropriate penalties to infringers. While there is no requirement that countries establish new IP-specific courts, RCEP parties must have the legislative framework to allow IP cases to be heard through the judicial system.



#### Possible Civil Remedies Under RCEP:

- Damages
- Payment of court fees
- Destruction of infringing materials without compensation

#### Possible Criminal Remedies Under RCEP:

- Damages
- Payment of court fees
- Destruction of infringing materials without compensation
- Punitive fines
- Prison sentences

Both civil and criminal remedies are to be made available in cases where IP infringement occurs online. Where an individual illicitly records a film with intent to distribute for profit, RCEP countries must ensure criminal procedures are available.

### Businesses Must Initiate Enforcement



Enforcement measures are not automatic – right holders must make requests to the relevant authorities. If a Singapore business learns that counterfeiters are selling an imitation of their product abroad, for example, the business must make appeals to the relevant authorities in order to begin enforcement action. Provided that the business has properly registered a trademark with the relevant IP authorities, the business has several options to protect their IP. First, the Singapore company must make the appropriate notifications to the authorities – in the case of a trademark violation, this is the Intellectual Property Rights Branch of the Singapore Police Force. The business may choose to make use of arbitration mechanisms, or a civil or criminal action handled by judicial authorities depending on the scale and seriousness of the infringement.

### Technical Assistance on Enforcement Measures

Cambodia and Myanmar have submitted requests for technical assistance on IP right enforcement. Specifically, Cambodia has requested technical assistance on establishing civil, criminal, and provisional enforcement measures. On these issues, as well as enforcement in a digital environment, Cambodia has a ten-year transition period. This means the changes are not expected to take place until ten years after RCEP comes into force. Similarly, Myanmar has requested support in capacity building to ensure customs authorities can effectively identify counterfeit and pirated goods, and support effective action against infringement on digital platforms. On digital enforcement, Myanmar has a ten-year transition period.



## How RCEP Enhances Intellectual Property for Singapore Businesses

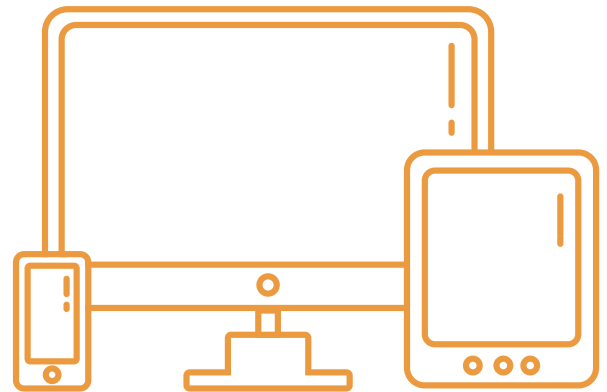
Strong and reliable IP protection has helped Singapore businesses stay competitive in an increasingly digitalised and globalised world.

RCEP takes this a step further by standardising IP rules across signatory countries, making IP regimes easier for businesses operating in the region to navigate. In practice, this means ensuring that all 15 RCEP countries have ratified or acceded to the key multilateral agreements on IP protection, enforcement, and international cooperation. With increased IP protection in Singapore's regional trading partners, Singapore businesses can more confidently expand and set up operations throughout the region, with the assurance that their branding, new inventions, and products will be adequately protected.

To protect their IP, businesses must **register their IP with the relevant authorities**. The authorities would decide whether to grant or deny the registration of the IP. The registration process and the extent of IP protection depends on the individual jurisdiction.

### Bringing IP Rights into the Digital World

RCEP is a major step towards the digitalisation of IP rights. By requiring member countries to construct digital databases concerning IP information and online platforms for IP registration, RCEP effectively removes barriers to entry for businesses that otherwise do not have the capacity to navigate complex IP regimes. Though IP must still be registered on a country-by-country basis, greater access to information and registration tools will improve market access. This will help Singapore businesses, especially MSMEs, access new markets.



Another key development is that RCEP makes increased efforts to protect digital assets. This includes domain names, which are vital to businesses as transactions increasingly move online. RCEP also provides for protection of copyrighted works and software through penalising the removal of digital Rights Management Information, a key step in fighting against digital piracy.

### Enforcement of IP Rights

Efforts to update regional IP regimes under RCEP must be underpinned by a commitment to renew enforcement efforts. Under RCEP, countries must commit to making meaningful enforcement actions available to IP right holders. The agreement sets acceptable minimum standards for enforcement of IP rights. This means participating countries must establish the legislative framework for civil and criminal litigation where IP rights are infringed. This gives businesses looking to enter RCEP markets confidence that they will have access to IP enforcement mechanisms.





# RCEP IN ACTION

## Case Study: Singapore Precision Engineering company

Consider the case of Company ABC, a precision engineering company in Singapore. This MSME is an automotive component manufacturer, building auto parts for a foreign car manufacturer. The company has just developed a new product – an engine component that boosts the efficiency of the vehicle. This product was developed by Company ABC after ample research, development, and testing. As members of a competitive industry, the company must take adequate steps to protect its IP to ensure that this hard work and innovation is rewarded.



Protecting IP means registering the new product with the proper authorities. Since the engine component was developed by Company ABC and there are no similar products already patented, the invention company can file for patent protection in Singapore and beyond, subject to the examination process conducted by IPOS. If successful, the patent is granted in Singapore, which means that the protection also applies in other ASEAN jurisdictions.

Thanks to RCEP, Company ABC can be assured that their patentable IP will be protected throughout the 15 signatory countries when registered by the authorities in that country. This is because RCEP enhances Company ABC's right to enforce their IP, as well as offers easier patent registration in some member countries. Further, RCEP ensures that member countries are party to international agreements that strengthen IP rights. By registering their patent, Company ABC has ensured that they will be well-positioned to benefit from their invention if commercially successful. This encourages innovation, keeping Company ABC competitive and profitable.

## Case Study: Singapore Agri-tech Company



Consider the case of an Agri-tech company based in Singapore. This company develops new varieties of an oilseed plant that is used for eco-friendly biofuel production. Through high-tech processes like gene splicing, the company develops new plant varieties that are more productive and easier to grow. These new plant varieties, able to grow in difficult conditions, could be planted in areas where climate conditions are otherwise not conducive to farming.

Developing new plant varieties is difficult and expensive, as it requires a great deal of research and experimentation. Strong IP protection of plant varieties allows the company to ensure that this work pays off. A Grant of Protection for a Plant Variety provides the originator exclusive rights over the production, propagation, sale, import, and export of a specific plant variety.

RCEP requires that each country provide for the protection of new plant varieties through a *sui generis* system, meaning a separate system from other kinds of IP, or through the existing patent system. This means that any RCEP country without a system to administer and protect registered plant varieties must create one.

This will benefit the Agri-tech company as it seeks to do business abroad. This is because several ASEAN member states are not signatories to the

International Convention for the Protection of New Varieties of Plants (UPOV), which delineates protections of plant varieties. RCEP fills this gap, both encouraging ratification of UPOV and requiring plant variety protections through patent or standalone systems. RCEP enhances protection of new plant varieties, meaning the Agri-tech company can access new markets while ensuring its research and development efforts will be rewarded.

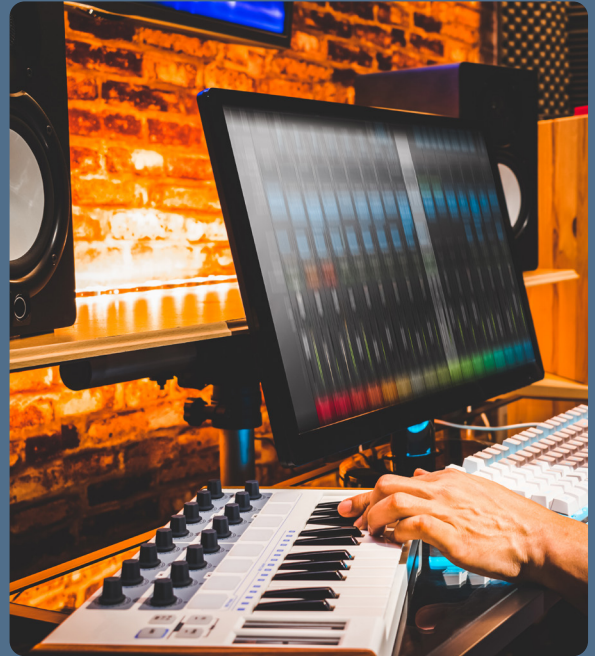


## Case Study: Copyright for Singapore Musicians

Originators of the creative work, whether an individual or an enterprise, benefit from automatic protection of IP through copyright. While copyright is automatically protected by law, the right holder must initiate enforcement actions where rights are infringed. RCEP updates copyright protections for the digital era, where media is often streamed online.

Singapore musicians recording music for distribution online stand to benefit under updated copyright protections. These musicians have the exclusive right to authorise the distribution of their works to the public. Today, that often means opting to put their songs on any of several popular online streaming platforms that pay the artistes per number of streams. But piracy has long been a concern with media distributed over the internet. Bad actors might seek to illicitly download and share the artistes' songs, threatening their livelihood.

RCEP requires that countries fill existing gaps in digital copyright protections through the legal system, bringing the least developed RCEP countries up to acceptable standards. This means punishing those who illicitly distribute music and those who alter the electronic Rights Management Information put in place to prevent piracy by preventing downloading and sharing. Additionally, RCEP requires that parties make enforcement actions, including civil and criminal enforcement, available in cases where infringement is digital. With enhanced protections of digital copyright, Singapore originators of creative works can be confident that they will be rewarded for their efforts across all RCEP jurisdictions and online.



# HOW TO PROTECT YOUR IP IN SINGAPORE

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Protecting IP in Singapore starts with IPOS. Those seeking to protect their IP must use the IP2SG e-platform, which allows users to file applications for trademarks, patents, Geographical Indications, and industrial designs. Though similar processes, applicants must take care to note that requirements vary according to the type of IP. Except for copyright, IP is not automatically protected in Singapore – businesses must be proactive. Those who seek to protect their IP should do so as soon as they can. Singapore provides for a ‘first-to-file’ advantage, meaning that the enterprise or individual who first submits their IP for protection is generally given priority over others who seek to register the same IP. Once registered with IPOS, right holders can reap the benefits of their IP, securing revenue streams into the future if commercially successful.

The Intellectual Property Office of Singapore (IPOS – [www.ipos.gov.sg](http://www.ipos.gov.sg)) is the national authority that registers and is responsible for the administration of IP rights in Singapore. IPOS helps businesses use IP and intangible assets (IA) to grow and is committed to building Singapore into an international IP/IA hub. IPOS is a statutory board under the Ministry of Law.



## **Intellectual Property Office of Singapore Address**

1 Paya Lebar Link, #11-03

PLQ 1, Paya Lebar Quarter

Singapore 408533

(IPOS currently operates on an appointment basis)

## RESOURCES

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The Legal text of the RCEP can be found at the RCEP Secretariat website:

<https://rcepsec.org/legal-text/>

More information on Singapore’s Free Trade Agreements can be found on the Enterprise Singapore website:

[www.fta.gov.sg](http://www.fta.gov.sg)

Information and guides on IP protection can be found on the IPOS website:

<https://www.ipos.gov.sg/>