

counsel for Teo had himself expressed a view that it would be prudent to use the evidence adduced at the trial within a trial for the purposes of the main trial. Based on the unconditional express approval by counsel and the fact that the two short answers given by the accused to Ang had been admitted in evidence as being made voluntarily, the court found that there was nothing to suggest that the use of the evidence at the voir dire at the main trial occasioned any miscarriage of justice. However, the Court of Appeal added that, as a matter of law and practice, trial judges should avoid using the evidence adduced at the trial within a trial for the purposes of the main trial, except as pointed out by the Privy Council in *Wong Kam-ming*.

Teo's counsel also raised the argument that the CNB, by failing to send the bag containing drugs for fingerprint analysis, had caused a break in the chain of evidence. The Court of Appeal rejected this argument based on the fact that Teo had himself admitted that the bag was his. On the issue as to whether there was any requirement on the part of the authorities to send the relevant incriminating exhibits for fingerprint analysis was considered by the Court of Appeal in *Osman bin Din v PP* [1995] 2 SLR 129. In that case, the court held that there was no primary or statutory obligation on the part of the authorities to undertake a fingerprint examination, particularly in a case where the appellant was apprehended with the offending substance. The Court of Appeal further held that in accordance with the Misuse of Drugs Act (Cap 185), once possession was *prima facie* established, it was for the accused person to explain how he came into possession of the drugs. Based on the above, the Court of Appeal found the argument that the CNB had failed to adhere to the fundamental principles of investigation to be plainly unsustainable.

On the point of the trial judge having

failed to appreciate that Teo had not been fully apprised of the peril of the death penalty when his statements were being recorded by the investigating officer, the Court of Appeal found that the accused himself had admitted that he knew that the trafficking of drugs could carry the death penalty. Despite this he thought the case was an ordinary trafficking case. He also admitted that he had wondered what the penalty was but had not asked about the sentencing, as he had not been feeling well. The Court of Appeal did not believe the portrayal of Teo being a simpleton and found that he knew that he was facing a capital charge at the time when his statements were given. It was also apparent from the records that the charge and the notice of warning had been served on him and that the nature and consequences of the charge had been explained to him in Hokkien by an interpreter. Under those circumstances, the Court of Appeal found that the contention that the punishment of death penalty was not brought to the attention of the accused was without merit.

Legislation

The following intellectual property Bills were passed in Parliament on 15 June 2004:

Trade Marks (Amendment) Bill 2004 (B18/2004)

The Trade Marks Act will be amended to provide greater protection for businesses. The amendments will open up more avenues to protect businesses' investment in branding, licensing and product development.

Patents (Amendment) Bill 2004 (B19/2004)

This Bill seeks to amend the Patents Act to implement certain obligations undertaken by Singapore under the United States-Singapore Free Trade Agreement (USSFTA) concluded in 2003, and to modify certain administrative procedures.

Plant Varieties Protection Bill 2004 (B21/2004)

This new legislation conforms to the 1991 revision of the UPOV (The International Union for the Protection of New Varieties of Plants) Convention. Under the proposed Act, new varieties of 15 plant genera and species which are of relevance and importance to local plant breeders and biotech industry are eligible for protection.

Intellectual Property (Miscellaneous Amendments) Bill 2004 (B20/2004)

This Bill amends the Copyright Act, the Registered Designs Act, and the Layout-Designs of Integrated Circuits Act. Most notably, it amends the Copyright Act to extend the term of protection by another 20 years.

Statutes (Miscellaneous Amendments) (No 2) Bill 2004

Amendment of Companies Act

The Bill seeks to amend the section 189 of the Companies Act to provide that the rights of a member of a company to inspect minutes under s 189(1) and to be furnished with copies of minutes under s 189(2) are confined to minutes of proceedings of general meetings and of written resolutions.

With the proposed introduction of a new s 189(2A), it is now clear that the right of

a member to inspect minutes and to be furnished with copies of minutes 'shall not apply to books containing minutes of proceedings of meetings of a company's directors and of its managers, or (as the case may be) books containing minutes of the passing of resolutions and the making of declarations by the director of a company that has only one director'.

The Bill also proposes to amend ss 253(2)(a)(i) and 254(1)(d) to allow the court to wind up a company which has no member. Presently, these provisions provide for winding up where the number of members is reduced below two (except in the case of a wholly-owned subsidiary, where the sole shareholder is the holding company).

Amendment of Government Procurement Act

Aside from amending the Companies Act, the Bill also seeks to amend the Government Procurement Act to enable Singapore to give effect to its obligations relating to procurements by the government and public authorities under the various Free Trade Agreements to which it is a party.

Legal Profession (Amendment) Bill 2004

The Legal Profession (Amendment) Bill 2004 was passed in Parliament on 15 June 2004. When implemented, the Legal Profession Act will be amended primarily to make provisions for the new position of a 'locum solicitor' which the Bill defines to mean an advocate and solicitor engaged (whether concurrently or otherwise) on a temporary or freelance basis by one or more law firms, law corporations or solicitors practising

on their own account. Amongst other changes, the Bill introduces a new s 25(2A) to require solicitors intending to practise as locum solicitors to apply for a practising certificate to practise as a locum solicitor in accordance with rules relating to such practising certificates. The Bill also prescribes the requirements, which have to be satisfied before a person can apply to practise as a locum solicitor.

Another key change is the removal of the current restriction that foreign lawyers representing a party in any arbitration proceedings, involving Singapore law, must appear jointly with a Singapore advocate and solicitor. This amendment also clarifies that foreign lawyers may give advice, prepare documents and render assistance in relation to or arising out of arbitration proceedings. The foreign lawyers will not, however, have any right of audience in any Singapore court.

Medicines (Amendment) Bill 2004

The Medicines (Amendment) Bill 2004 (the 'Bill') amends the Medicines Act to implement certain obligations undertaken by Singapore under the United States-Singapore Free Trade Agreement, which was concluded in 2003. Among other changes, a new s 12A is introduced, which essentially prescribes various factors that have to be taken into account by the licensing authority when dealing with an application for a product licence. The new section also requires an applicant for such licence to make one or more declarations stating whether the medicinal product is subject to a patent and other particulars relating to that patent.

Computer Misuse (Amendment) Act (Commencement) Notification (S327/2004)

The Computer Misuse (Amendment) Act 2003 (A25/2003) was passed in Parliament on 10 November 2003 and gazetted on 12 December 2003.

The Computer Misuse Act is amended, inter alia, to introduce a new s 15A to allow necessary measures to be taken to prevent or counter any threat to a computer or computer service. Such measures may be taken by an authorised person or organisation if the Minister of Law certifies that he is satisfied that such measures are necessary for the purposes of preventing or countering any threat to the national security, essential services, defence or foreign relations of Singapore. If an offence is disclosed in the course of or pursuant to the exercise of the powers authorised by the Minister under the new s 15A, the first information report for that offence cannot be disclosed in court or to the defence counsel. The particulars of the informer of the offence is also protected from disclosure or discovery.

New s 15A will come into force on 14 June 2004.

The Computer Misuse (Amendment) Act 2003 also amends the Computer Misuse Act to introduce a new s 12A empowering the Commissioner of Police or any person authorised by him to compound offences under the Act that are prescribed as compoundable offences. The commencement date for new s 12A has yet to be gazetted.

Elizabeth Wong
Allen & Gledhill