

# SAL Conference 2011

Date: 24-25 February 2011 Venue: Supreme Court Auditorium



SINGAPORE  
ACADEMY OF LAW

Developments in  
Singapore Law 2006-2010:  
Trends and Perspectives

# SAL Conference 2011

## Developments in Singapore Law 2006-2010: Trends and Perspectives

### Programme

#### Day 1 (24 February 2011)

##### Opening Ceremony

8:45am Registration and Coffee  
Arrival of VIPs

9:15am Opening Address  
Guest-of-Honour, The Honourable the Chief Justice Chan Sek Keong, Supreme Court of Singapore, and President,  
Singapore Academy of Law

##### Arbitration Law and Practice

Chairman: The Honourable Justice V K Rajah, Judge of Appeal, Supreme Court of Singapore

9:30am Recent Singapore Decisions and Trends in the Arbitration World  
by The Honourable Justice Quentin Loh, Supreme Court of Singapore

10:30am Tea Break

11:00am The Judicial Attitude towards Arbitration  
by Mr Michael Hwang, SC, Michael Hwang

12:00pm Q & A

12:30pm Lunch Break

##### Contract Law

Chairman: The Honourable Justice Andrew Phang Boon Leong, Judge of Appeal, Supreme Court of Singapore

2:00pm Singapore Contract Law in an Interdependent World of Commerce  
by Professor Howard Hunter, School of Law, Singapore Management University

3:00pm Tea Break

3:30pm Singapore Contract Law: Themes from 2006-2010  
by Professor Michael P Furmston, School of Law, Singapore Management University

4:30pm Q & A

5:00pm End of Day 1

#### Day 2 (25 February 2011)

##### Parallel Sessions I

9:15am **Civil Procedure**  
Procedure's Multi-Faceted Relationship with Substantive Law: not a Mistress; not even a Handmaiden  
by Professor Jeffrey D Pinsler, SC, Faculty of Law, National University of Singapore; and Mr Cavinder Bull, SC, Drew & Napier LLC

##### Criminal Law and Procedure

Themes and Variations in Criminal Justice  
by Ms Jennifer Marie, SC, Attorney-General's Chambers; and Professor Michael Hor, Faculty of Law,  
National University of Singapore

##### Family Law

Chairman: Associate Professor Chan Wing Cheong, Faculty of Law, National University of Singapore

Recent Trends and Developments in the Division of Matrimonial Assets  
by Ms Lim Hui Min, Legal Aid Bureau

Parental Responsibility as the Core Principle in Legal Regulation of the Parent-Child Relationship  
by Professor Leong Wai Kum, Faculty of Law, National University of Singapore

Marriage Produces a Husband and a Wife: the Law on Void and Voidable Marriages and the Legal Regulation of the Husband and  
Wife Relationship  
by Associate Professor Debbie Ong, Faculty of Law, National University of Singapore

10:45am Tea Break

# SAL Conference 2011

## Developments in Singapore Law 2006-2010: Trends and Perspectives

### Programme

Day 2 (25 February 2011) (Cont'd)

#### Parallel Sessions II

- 11:15am **Tort Law**  
The Common Law of Defamation in Singapore – Recent Developments  
by Associate Professor Gary Chan, School of Law, Singapore Management University
- Economic Torts - The Torts That Lacked Their Atkin  
by Associate Professor Lee Pey Woan, School of Law, Singapore Management University
- Negligence and the Limits of Responsibility  
by Professor Kumaralingam Amirthalingam, Faculty of Law, National University of Singapore
- Intellectual Property Law**  
Developments in Trade Mark Law 2006–2010: Confusion-based Protection and Beyond  
by Associate Professor Ng-Loy Wee Loon, Faculty of Law, National University of Singapore
- Developments in Patent Law: 2006-2010  
by Dr Stanley Lai, SC, Allen & Gledhill LLP
- Developments in Singapore Law, 2006-2010: Copyright  
A Return to Basic Principles and Issues  
by Professor George Wei, School of Law, Singapore Management University
- Corporations Law**  
Recent Amendments to the Companies Act  
by Professor Tan Cheng Han, SC, Faculty of Law, National University of Singapore
- Directors' Duties and Minority Oppression  
by Associate Professor Pearlie Koh, School of Law, Singapore Management University; and  
Associate Professor Lan Luh Luh, Faculty of Law, National University of Singapore
- Credit and Securities: Form, Substance and Extrinsic Evidence  
by Professor Hans Tjio, Faculty of Law, National University of Singapore
- Schemes of Arrangement: Singapore-Styled Debt Restructuring  
by Mr Lee Eng Beng, SC, Rajah & Tann LLP

12:45pm Lunch Break

#### Parallel Sessions III/ Closing Session

- 2:15pm **Land Law**  
Chairman: Mr Vincent Hoong, Singapore Land Authority
- Constant Conflict: Tensions in Land Law Jurisprudence  
by Dr Tang Hang Wu, Faculty of Law, National University of Singapore; and  
Associate Professor Kelvin FK Low, School of Law, Singapore Management University
- Conflict of Laws**  
Private International Law 2006-2010: Themes, Fundamentals, and Obstacles  
by Professor Tan Yock Lin, Faculty of Law, National University of Singapore; and  
Professor Yeo Tiong Min, School of Law, Singapore Management University
- Administrative Law**  
Judicial Scrutiny of the Exercise of Discretionary Power  
by Mr David Chong, SC, Attorney-General's Chambers
- The Theory and Practice of Judicial Review of Administrative Action  
by Professor Thio Li-ann, Faculty of Law, National University of Singapore
- 3:50pm Closing Session

#### Closing Address

4:20pm Tea/Networking Session  
End of Conference

# SAL Conference 2011

## Developments in Singapore Law 2006-2010: Trends and Perspectives



### Speakers & Topics

#### Arbitration Law and Practice



Chairman

**The Honourable Justice V K Rajah, Judge of Appeal**, received his LLB from the University of Singapore in 1982 and went on to obtain his LLM from the University of Cambridge thereafter. In 1983, he was admitted as an advocate and solicitor of the Supreme Court of Singapore. He started practice with M/s Rajah & Tann in 1983 and took over the helm of the firm as Managing Partner in 1986. He was made Senior Counsel in 1997. He was appointed Judicial Commissioner on 2 January 2004, and appointed Judge on 1 November 2004. He was appointed Judge of Appeal on 11 April 2007. Among the many concurrent appointments which Justice Rajah holds are: Vice President, Singapore Academy of Law; Member, Legal Service Commission; Chairman, Board of Legal Education; Chairman, Institute of Legal Education; Chairman, Judicial Education Board; and Member, Advisory Board of the School of Law, Singapore Management University.



**The Honourable Justice Quentin Loh** was appointed as Judicial Commissioner on 1 September 2009, and appointed as Judge on 1 June 2010. Justice Loh graduated from the National University of Singapore with a LLB (Hons) in 1974 and has had a distinguished practice in all aspects of construction claims, commercial litigation, arbitration and insurance law. Prior to his appointment to the Bench, Justice Loh led the Construction & Projects and the Insurance & Reinsurance Practice Groups of Rajah & Tann LLP. He was also a key member of the International Arbitration Practice Group of Rajah & Tann LLP. Before joining Rajah & Tann LLP, Justice Loh was the Managing Partner of Cooma Lau & Loh, a firm he co-founded in 1979. Justice Loh was appointed Senior Counsel in January 1999 and is also the author of several books on contracts, insurance and arbitration matters.

#### Recent Singapore Decisions and Trends in the Arbitration World

The speaker will discuss recent Singapore decisions and their impact against current trends and issues in the international arbitration world. As Singapore aspires to be a venue of preferred choice in international arbitration, it cannot ignore the issues facing the international arbitration community. The impact and consequences of local jurisprudence must be viewed in a wider context than just our own shores.



**Mr Michael Hwang, SC** is a barrister and international arbitrator, both in commercial and public international arbitrations. He is an accredited arbitrator of 25 international arbitration centres and institutions, and is on the Governing or Advisory Board of 11 of them.

#### The Judicial Attitude towards Arbitration

- a survey of recent case law on arbitration and how they contribute to Singapore's development as a major international arbitration centre

This presentation aims to bring the viewer through the significant judicial decisions on arbitration made within the past five years and how they support the legislative policy of developing Singapore into an international centre for arbitration. The presenter also includes some of his personal comments on the impact of certain judicial pronouncements.

#### Contract Law



Chairman

**The Honourable Justice Andrew Phang Boon Leong, Judge of Appeal**, received his LLB from the University of Singapore in 1982, and both his LLM and SJD from Harvard University in 1984 and 1988 respectively. In 1990, he was admitted as an advocate and solicitor in Singapore. He taught at the National University of Singapore's Law Faculty from 1982 to 2000 and was appointed Professor of Law in 1999. In 2000, he was appointed Professor of Law of the Singapore Management University (SMU). He was made the Chair of the Department of Law at the SMU's Business School the following year. His extensive publications include the local edition of Cheshire, Fifoot and Furmston's Law of Contract. Justice Phang was appointed Senior Counsel in 2004. He was appointed Judicial Commissioner on 3 January 2005, appointed Judge on 8 December 2005 and appointed Judge of Appeal on 28 February 2006.



**Professor Howard Hunter** is Professor of Law at Singapore Management University, Professor of Law Emeritus, Emory University, and Recurrent Visiting Professor of Law, Central European University. He was President of SMU 2004-2010, Dean of the Emory University School of Law 1989-2001, and Interim Provost of Emory University 2001-2003. He is an alumnus of Yale University, A.B. 1968, J.D. 1971.

#### Singapore Contract Law in an Interdependent World of Commerce

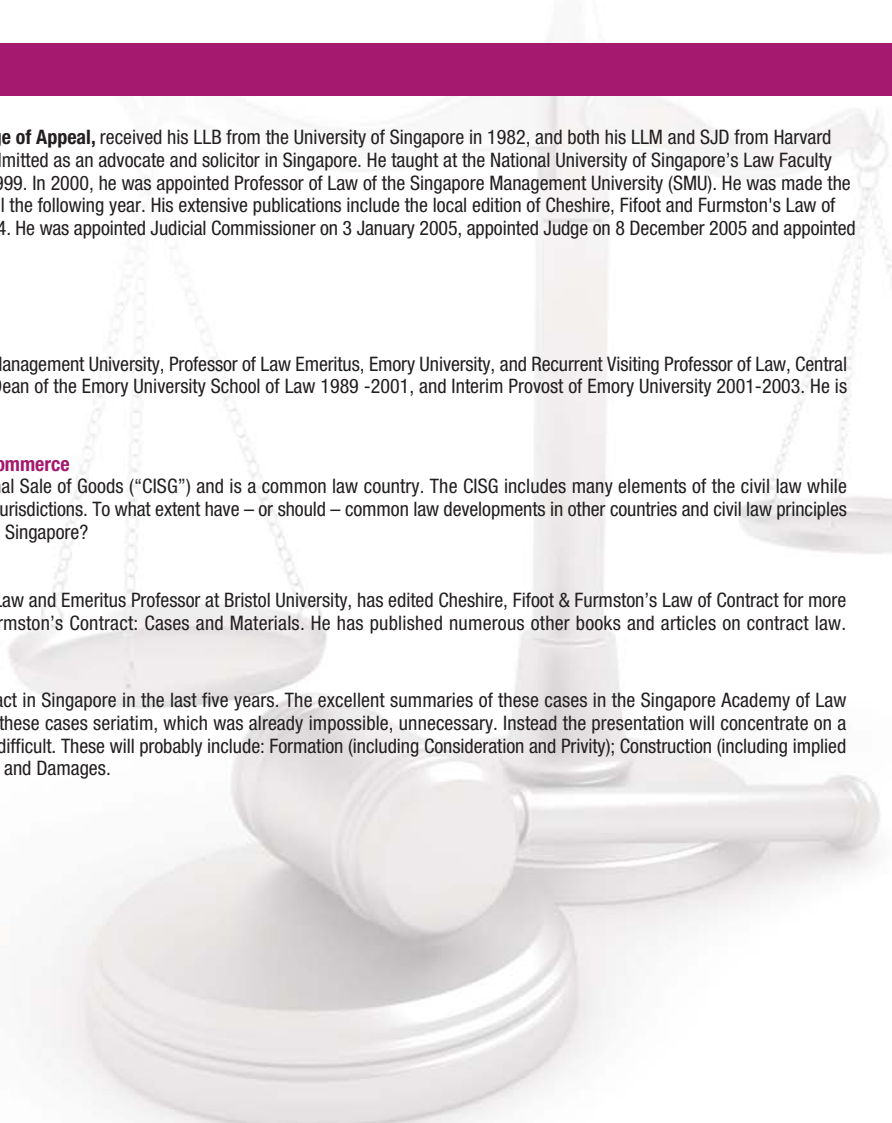
Singapore is a party to the UN Convention on the International Sale of Goods ("CISG") and is a common law country. The CISG includes many elements of the civil law while many of Singapore's major trading partners are common law jurisdictions. To what extent have – or should – common law developments in other countries and civil law principles within the CISG affect the development of contract law within Singapore?



**Professor Michael P Furmston**, Dean of the SMU School of Law and Emeritus Professor at Bristol University, has edited Cheshire, Fifoot & Furmston's Law of Contract for more than 30 years and is the joint author of Beale, Bishop & Furmston's Contract: Cases and Materials. He has published numerous other books and articles on contract law.

#### Singapore Contract Law: Themes from 2006-2010

There have been many interesting case on the Law of Contract in Singapore in the last five years. The excellent summaries of these cases in the Singapore Academy of Law Annual Review of Cases make an extensive consideration of these cases seriatim, which was already impossible, unnecessary. Instead the presentation will concentrate on a limited range of topics which seem particularly important and difficult. These will probably include: Formation (including Consideration and Privity); Construction (including implied terms and exemption clauses); Mistake; Discharge by breach; and Damages.



# SAL Conference 2011 Developments in Singapore Law 2006-2010: Trends and Perspectives



## Speakers & Topics

### Civil Procedure



**Professor Jeffrey Dan Pinsler, SC** teaches civil justice, civil and criminal evidence, procedure and ethics at the National University of Singapore. He is an advocate and solicitor, barrister-at-law, a member of the Singapore International Arbitration Centre's panel of arbitrators, Fellow of the Singapore Institute of Arbitrators, and a Principal Mediator of the Singapore Mediation Centre. He has produced 14 major text books and reference works, as well as multiple articles. His most recent works include 'Singapore Court Practice 2009' and 'Evidence and the Litigation Process' (3rd edition, 2010). His books and articles are regularly cited by lawyers and frequently relied upon by Judges. He was appointed Senior Counsel in 2008.



**Mr Cavinder Bull, SC** graduated with First Class Honours from Oxford University and holds an LLM from Harvard Law School. He has been called to the Bar of Singapore, England & Wales and New York. Cavinder was appointed Senior Counsel in 2008 and practices at Drew & Napier LLC.

#### Procedure's Multi-Faceted Relationship with Substantive Law: not a Mistress; not even a Handmaiden.

The integration of civil procedure and substantive law has been emphasised by the High Court and Court of Appeal on several occasions in recent years. The paper will examine how the relationship between civil procedure and substantive law has evolved pursuant to the aims of justice. It will be seen that former judicial labels such as 'mistress' or 'handmaiden' are no longer appropriate. More specifically, the paper will address the following sub-themes in the context of the recent case law:

- How civil procedure effectuates substantive law
- How civil procedure maintains the integrity of justice
- How civil procedure demands to be engaged in an ethical manner
- How procedure stands aside in the overall interest of justice
- How these principles may be engaged by lawyers

### Criminal Law & Procedure



**Ms Jennifer Marie, SC** was appointed Chief Prosecutor in 2008, and now heads the Criminal Justice Division of the Attorney-General's Chambers, Singapore, which is responsible for all High Court prosecutions, and the prosecutions of financial and securities offences. Ms Marie also has vast experience in dealing with international co-operation in criminal matters, including mutual legal assistance and extradition, and has represented Singapore at various forums and negotiations concerning cross-border assistance. She was appointed a Senior Counsel in January 2010.



**Professor Michael Hor** is a Professor at the Faculty of Law, National University of Singapore. He has taught and researched in criminal law and procedure, and the law of evidence for over 20 years. He graduated from the same Faculty in 1984 and was a government legal officer administering insolvencies and a Magistrate before pursuing graduate programmes in Oxford and then in Chicago.

#### Themes and Variations in Criminal Justice

The past five years have seen momentous changes in the constitution and judicial approach of the Supreme Court of Singapore. Several decisions of the Court at the highest level tackled significant and controversial issues, sometimes with important dissenting judgments. Few would deny the period under review has produced probably the highest concentration of the most thought-provoking judgments in our criminal legal history. The two speakers in this session will analyse some of the most prominent and interesting decisions. The speakers will also attempt to identify common themes which cut across the Court's jurisprudence on criminal law, evidence and criminal procedure, as well as to mark out instances of conflicting judicial views or attitudes.

### Family Law



Chairman

**Associate Professor Chan Wing Cheong** teaches criminal law and family law in NUS. He completed his undergraduate studies in Law in Oxford University (England) and his Masters degree in Cornell University (USA). He is an advocate and solicitor of the Supreme Court of Singapore, a barrister of Gray's Inn (England), and a qualified attorney of New York State (USA).



**Ms Lim Hui Min** joined a large law firm on graduation and did banking and general litigation work. She then joined the Legal Service, where she worked as a magistrate, and subsequently a District Judge, covering first the Civil Registry for a year, and then the Family and Juvenile Court for about 5 years. She was subsequently seconded to the Ministry of Community Development, Youth and Sports to do policy work on issues affecting low-income families in Singapore. After two years there, she joined the Legal Aid Bureau, where she still is at present. Hui Min has written and edited numerous publications in the areas of civil, family and juvenile law.

#### Recent Trends and Developments in the Division of Matrimonial Assets

The Court of Appeal in the case of *Lock Yeng Fun v Chua Hock Chye* [2007] SGCA 33 has stated that there is no starting point of equality in the division of matrimonial assets, nor should this be the norm. The court will divide the matrimonial assets in a just and equitable manner, after taking into consideration all the circumstances of the case, including a homemaker's contributions. This presentation examines trends in the proportions of division, and analyses the key factors influencing the courts' decisions on division, with a particular focus on the credit given to non-financial contributions.



**Professor Leong Wai Kum** began her academic career in 1976 and continues to teach at the National University of Singapore. She dedicates herself to the elucidation and development of family law in Singapore. She actively engaged in the family law reform exercises of 1979 and 1995. Her books include *Elements of Family Law in Singapore* (Singapore: LexisNexis, 2007).

#### Parental Responsibility as the Core Principle in Legal Regulation of the Parent-Child Relationship

The law in Singapore began exhorting 'parental responsibility' from 1961 before most others. In the last 5 years we affirmed this principle in the law of guardianship when accessed by parents, discussed committing to international co-operation regarding abducted children and there has been call to review the status of an illegitimate child. Judicial discussion of the effect of the presumption of legitimacy upon maintenance obligations, however, requires further thought.

# SAL Conference 2011

## Developments in Singapore Law 2006-2010: Trends and Perspectives



### Speakers & Topics

#### Family Law (cont'd)



**Associate Professor Debbie Ong** teaches Family Law at the NUS Law Faculty and publishes mainly in this area. She has served as a Family Court Mediator for a decade and continues to serve on the Law Society's Family Law Practice Committee.

#### **Marriage Produces a Husband and a Wife: the Law on Void and Voidable Marriages and the Legal Regulation of the Husband and Wife Relationship**

The law of marriages has, surprisingly, been judicially clarified only through a recent decision. What is a 'valid' marriage licence that authorizes the solemnization of marriage under the Women's Charter? What is the relationship between void and voidable marriages? Beyond marriage there has been clarification of the legal view of marital agreements. What effect does a valid marital agreement have? The offence of 'rape' between spouses has been reformed.

#### Tort Law



**Associate Professor Gary Chan Kok Yew** is Associate Professor of Law and Director, Continuing Legal Education at the Singapore Management University. He graduated with LL.B (Honours) (NUS) and LL.M (London). He is an Advocate and Solicitor (Singapore) and a Attorney and Counselor-at-Law (New York). His main research interests are Tort Law and Singapore Legal System.

#### **The Common Law of Defamation in Singapore - Recent Developments**

This paper examines the recent local developments in the tort of defamation including the Court of Appeal decision of *Review Publishing Co Ltd v Lee Hsien Loong* [2010] 1 SLR 52. The Singapore developments will be discussed against the backdrop of English and Commonwealth precedents, and analyse a range of local cases relating to defamatory meaning, publication via Internet and emails, the defences of fair comment, qualified privilege and the Reynolds privilege.



**Associate Professor Lee Pey Woan** is currently Associate Dean at Singapore Management University. Pey Woan graduated with from King's College London and subsequently obtained the Bachelor of Civil Law from Oxford University. Prior to joining SMU, she was a legal counsel at Keppel Corporation Limited.

#### **Economic Torts - The Torts That Lacked Their Atkin**

In what sense are the economic torts – comprising inducing breach of contract, intimidation, conspiracy and causing loss by unlawful means – a “family” of torts? This is a question that has troubled both judges and jurists. While it is true that these torts do share the common features of requiring intentional conduct and proof of damage, on closer inspection it is not always clear that they can be justified by a consistent and singular theme. In practice, this uncertainty often translates into fuzziness in the ambit of the torts. This paper will discuss these difficulties by reference to recent developments of these torts in Singapore and in the Commonwealth.



**Professor Kumaralingam Amirthalingam** is Vice Dean at the Faculty of Law National University of Singapore. He obtained his LLB (Hons) and PhD from the Australian National University where he began his teaching career.

#### **Negligence and the Limits of Responsibility**

Courts use a combination of the various concepts of duty, causation and remoteness to control the limits of responsibility for negligently inflicted harm. The Singaporean Court of Appeal has in recent years sought to develop an indigenous law of negligence: this journey, which began in the mid-1990s, reached a high watermark in the last five years with landmark decisions on negligence. This paper examines Singapore's jurisprudence on negligence and compares it with contemporary developments in the main common law jurisdictions.

#### Intellectual Property Law



**Associate Professor Ng-Loy Wee Loon** is the Director of NUS Law Faculty's LLM (Intellectual Property and Technology) programme. She teaches the module 'Law of Intellectual Property' which focuses on Singapore's regime, as well as international IP modules such as 'International Trademark Law and Policy'. Outside of the university, her involvement in the IP scene includes the following: member of the Board of Directors of Singapore's IP office (2000–2001); member of the Board of Governors of the IP Academy, Singapore (since 2007); member of Singapore's Copyright Tribunal (since 2008). Amongst her academic publications is the text on Law of Intellectual Property of Singapore (2009 revised edition, Sweet & Maxwell).

#### **Developments in Trade Mark Law 2006–2010: Confusion-based Protection and Beyond**

Although the Trade Marks Act 1998 came into force more than a decade ago, it was really during this review period (2006-2010) when this Act became alive. This is evidenced inter alia by the fact that there were as many as 9 'firsts' from our Court of Appeal on the working of the Trade Marks Act: for example, the Polo case (2006) on infringement in section 27; the Nike case (2006) on revocation in section 22; the Wing Joo Loong Ginseng Hong case (2009) on distinctiveness in section 7; the Amanresorts case (2009) and the Louis Vuitton case (2010) on protection for well known trade marks in section 55(3)(a) and section 55(3)(b) respectively; the Mobil case (2009) on section 8(3) for well known trade marks. This paper will focus on one area where there were particularly significant developments, namely, the protection for well known trade marks.



**Dr Stanley Lai, SC** is Head of Intellectual Property & Technology. Stanley is a specialist in all forms of Intellectual Property litigation and enforcement. Stanley advises a large number of local and foreign clients on branding strategy, and general IP portfolio management and domain name protection. His practice has also extended to advising bio-medical, pharmaceutical and food companies on issues of regulatory/ethical compliance, clinical trials, product recall and product liability. He also maintains a commercial litigation practice, and regularly advises and represents clients on e-commerce, m-commerce and information technology disputes. Stanley is an Adjunct Associate Professor of the National University of Singapore, and teaches in the Faculty of Law and Faculty of Engineering.

#### **Developments in Patent Law 2006-2010**

Over the last five years we have witnessed an unprecedented surge of intellectual property cases in the Singapore, traversing the areas of trade marks, copyright, patents and the protection of confidential information. In the specific area of patents our Courts have set new benchmarks and presented new analysis and thinking on the scope of patent rights and defences, claims construction, the degrees of abstraction that should apply when scrutinizing prior art, the considerations that govern the amendments of patent claims in the course of patent infringement proceedings, as well as the role of experts in patent litigation. Noteworthy cases for discussion include *Trek Technology (Singapore) Pte Ltd v FE Global Electronics Pte Ltd* (No.2); *First Currency Choice Pte Ltd v Main-Line Corporate Holdings Ltd*; *Muhlbauer AG v Manufacturing Integration Technology Ltd*.

This presentation aims to summarize and consolidate the myriad of developments in the growing area of patent law this past lustrum, as well as discern trends and challenges for the future.

# SAL Conference 2011

## Developments in Singapore Law 2006-2010: Trends and Perspectives



### Speakers & Topics

#### Intellectual Property Law (cont'd)



**Professor George Wei** teaches at the School of Law, Singapore Management University where he teaches several courses in trade secrecy, privacy and intellectual and industrial property rights. Professor Wei has written several books including "Law of Copyright in Singapore" as well as an introductory text on "Life Sciences, Genetic Engineering and the Law". Prior to joining SMU in 2005, Professor Wei taught at the Law Faculty of the National University of Singapore. Professor Wei is also a Professorial Fellow of the Singapore Intellectual Property Academy and he has previously served as a member of the Singapore Copyright Tribunal. Professor Wei's most recent text publication is entitled "Some Thoughts on Intellectual Property Rights in Singapore. A Monograph for Professor Gerald Dworkin".

#### **Developments in Singapore Law, 2006-2010: Copyright**

##### **A Return to Basic Principles and Issues**

My presentation and paper will focus on copyright law decisions in the period (2006-2010). In particular it will examine how these cases have raised important questions relating to basic issues and principles in copyright law. These are the application of the expression/idea principle in copyright law, the relationship between primary infringement and authorization and finally the need to ensure a proper balance of rights and obligations that takes account of the interests of all copyright stakeholders. Cases that I will discuss include *Virtual Maps v Singapore Land Authority*, *Global Yellow Pages v Promedia* as well as *Record TV v Media Corp*. I will also touch briefly on the *Odex* decision as well as some very recent Australian decisions by way of contrast.

#### Corporations Law



**Professor Tan Cheng Han, SC** is the Dean of the Faculty of Law at the National University of Singapore. He is also a Specialist Judge, a litigator, and has been appointed arbitrator, in commercial disputes. His public appointments include being chairman of the Advisory Committee on Move-On and Filing Orders, Commissioner of the Competition Commission of Singapore, Advisor to the Singapore Taekwondo Federation, member of the Steering Committee to Review the Companies Act, member of the Singapore Youth Sports Development Committee, member of the Military Court of Appeal, and member of the Appeal Advisory Committee to the Minister for Finance. He is also the author and editor of five books.

#### **Recent Amendments to the Companies Act**

Corporations Law is always changing to keep pace with business developments and regulatory trends globally. In October 2007, the Minister for Finance established the Steering Committee to Review the Companies Act. The Steering Committee is likely to make several important recommendations to modernize Singapore Company Law, building on previous reform efforts. This session will highlight the important amendments that will be made to the Companies Act and situate them within the broader corporate law context.



**Associate Professor Pearlie Koh** teaches at the School of Law, SMU. The courses she has taught include company law and law of business organisations. She researches and writes mostly in company law.



**Associate Professor Lan Luh Luh** teaches at the Faculty of Law and the Business School, NUS and is the Co-Director, Corporate Governance and Financial Reporting Centre. She has a PhD and LLB from NUS and a LLM from Cambridge. She lectures in corporate finance law, company law and corporate governance.

#### **Directors' Duties and Minority Oppression**

Recent cases on directors' duties have focused on the breach of fiduciary duties on the assumption that all directors' owe the same duties. Can it, however, be argued that the scope of directors' duties should be calibrated according to the particular factual matrix in which the alleged breach occurred? In minority protection, we consider, in the light of recent cases, the construction of s 216, and on the relationship between s 216 and s 254(1)(j). We look also at quasi-partnership.



**Professor Hans Tjio** has taught at the Faculty of Law, NUS since 1990, and is currently the Director, Centre for Commercial Law Studies. He has degrees from Cambridge and Harvard, and lectures in securities regulation, company law, trusts and equity.

#### **Credit and Securities: Form, Substance and Extrinsic Evidence**

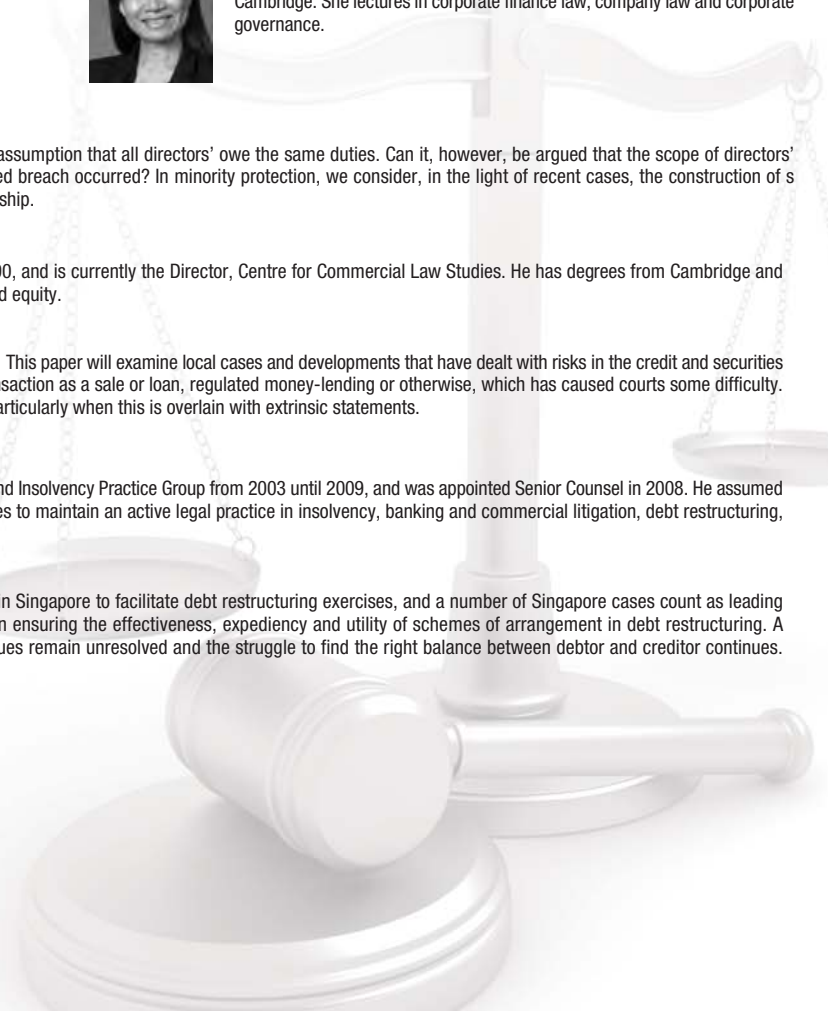
Many traditional legal concepts have struggled in the financial markets. This paper will examine local cases and developments that have dealt with risks in the credit and securities markets. The issue often appears to be whether to characterize a transaction as a sale or loan, regulated money-lending or otherwise, which has caused courts some difficulty. Even greater problems exist with complex financial documentation, particularly when this is overlain with extrinsic statements.



**Mr Lee Eng Beng, SC** headed Rajah & Tann LLP's Business Finance and Insolvency Practice Group from 2003 until 2009, and was appointed Senior Counsel in 2008. He assumed the position of the firm's Joint Managing Partner in 2010. He continues to maintain an active legal practice in insolvency, banking and commercial litigation, debt restructuring, and commercial arbitration.

#### **Schemes of Arrangement: Singapore-Styled Debt Restructuring**

The scheme of arrangement procedure continues to be widely used in Singapore to facilitate debt restructuring exercises, and a number of Singapore cases count as leading authorities on the subject. The Singapore courts have been robust in ensuring the effectiveness, expediency and utility of schemes of arrangement in debt restructuring. A distinctive local approach has developed. However, fundamental issues remain unresolved and the struggle to find the right balance between debtor and creditor continues.



# SAL Conference 2011

## Developments in Singapore Law 2006-2010: Trends and Perspectives



### Speakers & Topics

#### Land Law



Chairman

**Mr Vincent Hoong** is the Chief Executive of the Singapore Land Authority. He also holds the concurrent statutory appointments of Registrar of Titles & Deeds, and Controller of Residential Property. He graduated from the National University of Singapore with a LLB (Hon) and completed the Advanced Management Programme at the Harvard Business School. In private practice, he specialised in banking and commercial matters. On joining the Singapore Legal Service, he held various judicial appointments as an Assistant Registrar, Magistrate, Coroner and District Judge. Mr Hoong sits on the Singapore Academy of Law's Lawnet Management Committee.



**Dr Tang Hang Wu** is an Associate Professor at the Faculty of Law, National University of Singapore where he teaches and writes on the law of property, equity, trusts and restitution. Hang Wu has published books and articles in international peer-reviewed journals and his publications have been cited more than a hundred times in law reform reports, leading works and law journals in the Commonwealth and more recently by the Caribbean Court of Appeal and the Singapore Court of Appeal. He is a member of the Strata Titles Board and a member of the legal and administration sub-committee for the Special Needs Trust Company.



**Associate Professor Kelvin F K Low** is a graduate of the National University of Singapore and the University of Oxford. He taught law at the National University of Singapore and the University of Hong Kong before joining the Singapore Management University. His interests lie primarily in the field of private law, particularly in the areas of property, contract, equity and restitution. He has published papers and presented conference papers in Singapore, England, Hong Kong, Canada and Australia and is co-editor of the 3rd edition of Tan Sook Yee's Principles of Singapore Land Law (LexisNexis).

#### Constant Conflict: Tensions in Land Law Jurisprudence

Land law is essentially one of the key private law mechanisms which regulate relationships. It affects fundamental human interactions such as how people do business, their dealings with their neighbours and even property holding patterns in intimate relationships. Interwoven in land law jurisprudence are basic themes such as the promotion of clarity, stability and certainty of property rights, the protection of individual rights and the facilitation of the intent of the land owner. Yet these themes are not absolute and uncontested concepts. There are other factors which conflict with these themes such as communitarianism, the temptation to "do justice" between the parties in a particular case, the need to develop dynamic property doctrines to take into account changing social circumstances and the application of established default rules such as presumptions of resulting trust/advancement and mandatory heirship rules. These competing considerations make land law a perennially challenging and contested subject. In this paper, the authors examine these difficult tensions in land law jurisprudence by exploring the significant decisions in the past five years from the Singapore Courts on co-ownership, leases, mortgages, formalities, priorities, caveats, strata titles and easements.

#### Conflict of Laws



**Professor Tan Yock Lin** teaches international commercial litigation and principles of conflict of laws at NUS. He has authored a book on conflict issues in family and succession law but his other published work spans a wider range, from criminal procedure and evidence to commercial law.



**Professor Yeo Tiong Min**, Yong Pung How Professor of Law at the Singapore Management University, has wide research interests in private law, focusing on the conflict of laws. His publications have been relied on by appellate courts in Singapore, England, and Australia.

#### Private International Law 2006-2010: Themes, Fundamentals, and Obstacles

Private international law exists at three levels with different equilibria between international comity and party justice. In matters of jurisdiction, numerous examples demonstrate the Singapore courts' firm commitment to the alternative frameworks of forum non conveniens and strong cause; they also reveal, it is argued, less coherence where litigants seek provisional or ancillary relief. On the recognition and enforcement of foreign judgments, this paper argues that the Court of Appeal has recently cast fresh light, not only on the public policy defence but on the fundamental structure of the subject. On choice of law, in the period of review the Singapore courts have grappled with several fundamental questions of methodology, including the substance and procedure distinction, proof of foreign law, and choice of law rules for specific topics. Several decisions are potentially important contributions to Commonwealth jurisprudence.

#### Administrative Law



**Mr David Chong, SC** heads the Civil Division of the Attorney-General's Chambers. He taught and was a Vice-Dean at the Faculty of Law at the National University of Singapore. Mr Chong was awarded a Commonwealth Scholarship for his Masters-in-Law degree from University College London. He sits on the Advisory Board of the Faculty of Law, National University of Singapore and is a member of the Board of Legal Education. Mr Chong serves in several Committees of the Singapore Academy of Law and received the inaugural Singapore Academy of Law Merit Award. He has published numerous articles on shipping law and was also a legal consultant to the Ministry of Law for about 7 years. Mr Chong was appointed a Senior Counsel in January 2009.

#### Judicial Scrutiny of the Exercise of Discretionary Power

In the past 5 years, the the legality of administrative actions came under the scrutiny of the Singapore courts on several occasions. In reviewing the exercise of discretionary power by the executive, the courts discharged their role as the guardian of Constitutional rights and the rule of law. These occasions also saw the courts re-affirming the limits of their powers in judicial review. The courts also demonstrated their nimbleness to prefer practical solutions over adherence to technical formalities. These developments show that administrative law is thriving in Singapore.



**Professor Thio Li-ann**, PHD (Cambridge), LL.M (Harvard); BA Hons (Oxford) teaches and researches public law, human rights and international law at the National University of Singapore. She is a Barrister (Gray's Inn) and was formerly a Nominated Member of Parliament.

#### The Theory and Practice of Judicial Review of Administrative Action

The theory and practice of judicial review of administrative action, its scope, reach and intensity is examined, with a focus on issues relating to jurisdictional error, the actors subject to review (public-private distinction) and whether informal rules are binding. It is argued that judicial review must be grounded on the basis of the constitutional principle of the rule of law, pursuant to evolving an autochthonous legal system; thus it is important to unpack the theory of judicial review beyond the enforcement of parliament's will, to recognising the autonomous role of the courts in acting as the arbiter of responsible administration in service of good government under law.



# REGISTRATION FORM

# SAL Conference 2011

## Developments in Singapore Law 2006-2010: Trends and Perspectives

To: Conference Secretariat, Singapore Academy of Law,  
1 Supreme Court Lane, Level 6, Singapore 178879

Please register me for SAL Conference 2011:  
Developments in Singapore Law 2006-2010  
Trends and Perspectives  
24 - 25 February 2011

**Conference fees** (include 7% GST, conference materials, 2 lunches and tea breaks, and the SAL Conference 2011 Book.)  
(  tick where applicable)

**Closing Date for Early Bird Registration:**  
29 December 2010

**Closing Date for Registration:**  
11 February 2011

	Early Bird Rate (before 29 December 2010)	Normal Rate	
Singapore Academy of Law (SAL) Members	S\$417.30	S\$513.60	<input type="checkbox"/>
Non SAL Members	S\$770.40	S\$877.40	<input type="checkbox"/>
Multiple User Pass (MUP)*	S\$877.40		<input type="checkbox"/>
Full-time Students#	S\$107.00		<input type="checkbox"/>

**Dietary requirements:**  Vegetarian  Others : \_\_\_\_\_

\* A Multiple User Pass (MUP) will entitle up to 3 persons from an organisation to take turns to attend different days/parts of the conference. Each registered MUP participant will be provided with a full set of materials. Registrations are only accepted via fax, post or email.

#Registrations are only accepted via fax, post or email. Every student registration must be supported by a copy of a valid matriculation card.

### Parallel Sessions for 25 Feb 2011 (Please write the number of your preferred session for each set in the boxes below)

Set 1	9.15am to 10.45am	1.1 Civil Procedure	1.2 Criminal Law & Procedure	1.3 Family Law	<input type="checkbox"/>
Set 2	11.15am to 12.45pm	2.1 Tort Law	2.2 Intellectual Property Law	2.3 Corporations Law	<input type="checkbox"/>
Set 3	2.15pm to 3.50pm	3.1 Land Law	3.2 Conflict of Laws	3.3 Administrative Law	<input type="checkbox"/>

### Registration Terms and Conditions

- Registration for the event may be made:
  - online by logging on to [www.sal.org.sg](http://www.sal.org.sg) with a Visa or Master credit card
  - online through a firm's/organisation's Online Registration & Purchase Co-ordinator (ORPC)
  - by fax to: (65) 6334 4940 or email to: [les@sal.org.sg](mailto:les@sal.org.sg)
  - by post to: Conference Secretariat, Singapore Academy of Law, 1 Supreme Court Lane, Level 6, Singapore 178879.
- Registrations received on or before the closing date are confirmed unless otherwise notified.
- A sum of **S\$21.40 (inclusive of 7% GST)** will be levied for administrative charges for any cancellation received in writing on or before the closing date.
- For enquiries, please call Tel: (65) 6332 4149 or email [les@sal.org.sg](mailto:les@sal.org.sg).
- SAL's usual terms and conditions apply. See <http://www.sal.org.sg/RegistrationTermsNConditions.aspx> for details.

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Please register the following person for the above conference. A cheque (no. \_\_\_\_\_) for S\$\_\_\_\_\_ made payable to "Singapore Academy of Law" is enclosed. Please write the title of the event on the back of the cheque.

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### Delegate's particulars:

Name: Mr/Mrs/Ms/Dr:	Designation:
SAL No. (eg:A0012):	Non-Member NRIC/Passport No.:
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### Special Room Rates for Conference Delegates for "SAL Conference 2011" (per night)

#### Swissotel the Stamford, 2 Stamford Road, Singapore 178882

- Classic room S\$245.00++ (for single occupancy, room only)  
Room Reservations at Tel: (65) 6339 6633, Fax: (65) 6339 5117  
Email: [reservations.singapore@swissotel.com](mailto:reservations.singapore@swissotel.com)  
Please quote the reservation block code: **STS LSIN230211** and book before 22 January 2011 to enjoy the preferential rate.

#### Grand Park City Hall, 10 Coleman Street, Singapore 179809

- Superior room S\$248.00++  
(for single occupancy, one buffet breakfast and internet access)  
Room Reservations at Tel: (65) 6432 5558, Fax: (65) 6339 6202  
Email: [rsvn.gpch@parkhotelgroup.com](mailto:rsvn.gpch@parkhotelgroup.com)  
Please quote the reservation block code: **SAOL110223** and book before 22 January 2011 to enjoy the preferential rate.

### Accommodation Terms and Conditions

The above rates are subject to 10% service charge and the prevailing government taxes. The rates are also subject to availability, depending on the hotel's occupancy at the point of booking and shall be valid from 23 to 26 Feb 2011 only. For enquiries relating to accommodation arrangements, please liaise directly with your preferred hotel. All reservations must be guaranteed by guest's credit card. Check-in time is after 2pm and check-out time is at 12noon.