

Emerging Trends in Malaysian Patent and Design Practice: Adapting to Global Standards

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Patent

In an era where innovation drives economic growth and global competitiveness, legal systems that support and protect intellectual property are more important than ever. Malaysia, an emerging force in the global technological landscape, has recently embarked on a significant transformation to strengthen its patent system.

The Malaysian patent system is set for major developments following the entry into force of key provisions of the Patents (Amendment) Act 2022 and the Patents (Amendment) Regulations 2025 on 31 December 2025. These changes mark one of the most important modernizations of patent practice in Malaysia in recent years.

1. Enforcement of Post-Grant Opposition for Patents

The most notable development is enforcement of a **post-grant patent opposition** system, which came into effect on 31 December 2025.

Under this new system:

- Any interested person may oppose a granted patent before the Malaysian IP Office (MyIPO).
- Notice of opposition must be filed within **six months from publication of grant** in the Intellectual Property Official Journal (IPOJ).
- No extensions of time are permitted.

Further details on the post-grant opposition system, can be found [here](#).

The first batch of notices of opposition is expected in June 2026. This pioneer batch of oppositions will provide important insight into MyIPO's implementation of the procedural steps in practice. As subsequent batches of oppositions are filed, we will continue to monitor developments closely and report on key trends and observations.

Availability of post-grant opposition marks a major shift from the previous system, where patent validity could only be challenged through **invalidation proceedings** before the High Court, which is often a costly process. Post-grant opposition potentially provides a less expensive way for interested parties to challenge granted patents before MyIPO.

With post-grant opposition proceedings, MyIPO takes on an active role in adjudicating patent validity at the administrative level. This expanded authority reduces reliance on judicial proceedings and enhances the administrative framework for patents in Malaysia.

2. Updated Power of Attorney (PoA) Form

Enforcement of post-grant opposition on 31 December 2025 also resulted in implementation of new official forms for certain steps of patent prosecution.

Amongst the new official forms, is introduction of a new updated Power of Attorney (PoA) form (Form 17 - Appointment of Patent Agent). The updated form preserves the fundamental purpose of the PoA, which is to authorize a patent agent to act on behalf of the applicant or patent owner. An important enhancement in the updated form is the addition of an option to designate a patent agent for representation in opposition proceedings.

The circumstances under which a newly executed PoA will be required are well-defined.

These include the filing of new patent applications, requests for foreign filing permission, submission of third-party observations and initiating opposition proceedings against existing patents.

For pending patent applications and granted patents, a freshly signed updated PoA is only required when there is a need to change the agent on record or the address for service.

3. Stricter Scrutiny of Signatory Authority

In parallel with the introduction of the updated Power of Attorney (PoA) form for patents, there has been a noticeable shift in practice by MyIPO toward a **stricter verification of the authority of signatories**.

While the formal requirements for executing a PoA have not materially changed, there has been a steady increase in incidences of formality objections relating to the PoA for both patents (Form 17) and designs (ID Form 10) since the first quarter of 2025. Initially, these objections were sporadic and mainly concerned the designation of the signatory in the PoA. By the last quarter of 2025, this trend intensified into a more consistent and stringent practice.

MyIPO has now adopted a more structured and exacting approach to assessing whether a signatory possesses the requisite authority to execute a PoA on behalf of the patent/design applicant or owner.

This heightened scrutiny by MyIPO has been observed for both patent and industrial design matters.

Under current practice, MyIPO requires that the signatory of Power of Attorney (PoA) be an individual whose **designation clearly denotes sufficient authority** within the organization. A non-exhaustive list of typically acceptable designations include the following.

- President
- Vice President
- Chief Executive Officer (CEO)
- Managing Director
- IP Manager
- Or other equivalent senior positions of authority

These designations are generally recognized as signifying that the individual has the requisite authority to represent the company in legal or administrative matters.

Conversely, where a signatory's designation is considered **ambiguous or insufficient to demonstrate authority**, MyIPO is likely to raise a formal objection.

Examples of designations that commonly trigger objections include the following.

- Authorized Representative
- Attorney
- Counsel, General Counsel or Legal Counsel
- Secretary or Assistant Secretary
- Assistant Manager

In such cases, objections are typically raised in a **Preliminary Examination Adverse Report**, requesting the submission of an authorization letter or a separate declaration or Power of Attorney (PoA) from the applicant confirming the signatory's authority to execute the PoA on the applicant's behalf.

It is important to emphasize that this shift pertains to the substantive assessment of authority, rather than the formal execution requirements for the Power of Attorney.

There has been no change to the existing formal requirements, in that:

- notarization or legalization is not required; and
- color scans of the signed PoAs and electronic signatures are still accepted.

4. PCT-Derived National Phase Entry in Malaysia

Since 31 December 2025, a key procedural change has applied to applicants entering the national phase in Malaysia. It is now a requirement to submit a copy of the Written Opinion of the International Search Authority (ISA) at the time of filing the national phase application, if the Opinion is available.

A copy of any amendments submitted during the International Phase must also be provided to MyIPO, at national phase entry.

The updated Directive of Patents Act and Regulations in force 31 December 2025 recites that the Written Opinion of the ISA and any amendments entered during the International

Phase, now form part of the requirements of Section 78O(1)(a) and Section 78OA(1)(a) of the Patents Act. These sections pertain to requirements for national phase entry and reinstatement into national phase in Malaysia. Compliance is therefore essential to securing valid Malaysian national phase entry and reinstatement.

Failure to comply when the Written Opinion and/or international phase amendments were clearly available at national phase entry, can result in issuance of a Notice of Non-Compliance of Section 78O/78OA by MyIPO, which can lead to withdrawal of the application.

The Written Opinion of the ISA provides a preliminary assessment of the international application, addressing issues of novelty, inventive step, and industrial applicability. By mandating its submission, MyIPO aims to streamline examination and further align its practices with international patent standards.

Where the Written Opinion or international phase amendments are not in English, an English translation must be provided. In practice, MyIPO currently accepts machine-generated translations such as those provided by WIPO, offering a degree of flexibility where official translations are not immediately available.

In light of this development, applicants should ensure that the Written Opinion of the ISA and/or international phase amendments and, where necessary, their English translation, is readily available and incorporated into their national phase filing preparations for Malaysia.

5. Publication Practice in the IPOJ

Following the introduction of the post-grant opposition system, we have also observed that the publication practices of the Malaysian Intellectual Property Official Journal (IPOJ) have become more structured and predictable. This development is particularly important as the timing of publication now directly determines commencement of the opposition period. The six-month opposition period begins from the **date of publication of the grant in the IPOJ**.

Under the current regime, the IPOJ follows a broadly consistent two-batch publication cycle each month. The first batch, typically released before mid-month, primarily includes the publication of pending patent applications, specifically the 18-month publications, and the publication of lapsed patents. The second batch, usually issued towards the end of the month, includes the publication of granted patents alongside additional publications of pending applications. This structured approach allows for better anticipation of when relevant patent information will become publicly available.

In practice, there is a short delay between the date a patent is granted and its subsequent publication in the IPOJ. As a general rule, we have now observed that patents granted within a particular month are published in the second batch of the following month. For example:

- Patents granted between **01 January 2026 and 31 January 2026** are published in the **second batch of February 2026**
- Patents granted between **01 February 2026 and 28 February 2026** are published in the **second batch of March 2026**

This rolling publication cycle continues on a monthly basis resulting in an approximate one-month interval between the date of grant and the IPOJ publication of patents.

6. Notice of Prohibition of Publication

A notice of prohibition of publication on the grounds that an application is prejudicial to the interest or security of the nation (Section 30A of the Patents Act) is issued when MyIPO considers that disclosure of the invention may pose risks to **national security or public interest**. This typically arises in cases involving sensitive technologies, strategic industries, or subject matter with potential defense related implications.

Recently, we have also observed such notices being issued for patent applications in the pharmaceutical or biotechnology field due to potential public health implications and/or considerations related to Malaysia's Dangerous Drugs Act 1952.

Once a notice of prohibition of publication under Section 30A has been imposed, the patent application becomes subject to strict confidentiality restrictions, and publication of its contents will be withheld until MyIPO determines otherwise. This can have a material impact on the applicant's broader IP strategy and often requires reassessment of filing and disclosure strategies while the restriction remains in force.

A clear understanding of the basis for the prohibition is critical before any remedial action is taken. Where appropriate, applicants may be required to file formal submissions to MyIPO, supported by relevant justification and explanatory material. Depending on the circumstances, this may involve demonstrating that the grounds for restriction no longer apply or requesting limited or redacted publication where full disclosure remains restricted.

In terms of procedural effect, a Malaysian patent application subject to a Section 30A prohibition order may still be prosecuted to allowance. However, the patent application cannot proceed to grant until the prohibition is lifted.

7. Shifting Requirements for Documents for Foreign Filing License or Permission

As per the Directive of Patents Act and Regulations issued 18 March 2022, applicants seeking foreign filing permission are required to submit specific supporting documents, including a description that is sufficiently descriptive of the invention, a Power of Attorney (Form 17 - Appointment of Agent), an official form and payment of an official fee. These documents form the basis on which MyIPO assesses whether permission for foreign filing may be granted.

The Directive prescribes that the description of the invention should comprise at least 150 words and include a title of the invention. If drawings are required to illustrate the invention, then they should also be submitted. Notably, neither the Directive nor the Patents (Amendment) Act and Regulations 2022 provide for the requirement to submit a full formal patent specification for the purposes of requesting foreign filing permission.

However, recent practice reflects a clear shift in approach by MyIPO. Applicants are now increasingly encountering objections requiring the submission of **a full, complete formal patent specification** intended for the corresponding foreign application, in support of a request for foreign filing permission.

This development indicates a tightening of MyIPO's assessment standards for foreign filing permissions and goes against the spirit and provisions of the Directive issued 18 March 2022 as well as the Patents (Amendment) Act and Regulations 2022.

Until MyIPO returns to the actual provisions of the Directive and Patents Act and Regulations, Applicants should be prepared for a more substantive review of their requests for foreign filing permission.

Whenever possible, Applicants should ensure that comprehensive specifications are submitted at the outset to reduce the likelihood of objections and to avoid delays in obtaining grant of foreign filing permission.

8. Ongoing Backlog in Preliminary Examination Reports

Despite recent developments in Malaysian patent practice, delays in the issuance of preliminary examination reports by MyIPO remain a persistent concern.

This is because the Examining Division of MyIPO will not start substantive examination of patent applications until a preliminary examination – clear report has been issued.

The backlog for preliminary examination appears to stem not only from administrative constraints but also from increasingly stringent formality requirements, particularly in relation to the verification of signatory authority for the Power of Attorney (Form 17).

The increased scrutiny, coupled with a rise in related objections requiring clarification or additional supporting documentation, is contributing to slower clearance of preliminary examination formalities.

As a result, the preliminary examination stage is taking longer than most applicants expect or find acceptable.

However, we do not expect this situation to persist as the requirement on Form 17 signatories is one that applicants can now more easily anticipate and mitigate moving forward.

9. Positive Developments in Substantive Examination

Notwithstanding the ongoing delays in the issuance of preliminary examination clear reports, encouraging developments have been observed beginning the last quarter of 2025 and continuing on into the first quarter of 2026 with respect to substantive examination.

Notably, MyIPO has been actively issuing substantive examination reports for patent applications filed in 2023 and 2024. This indicates that once applications safely progress beyond the preliminary examination stage, the substantive examination process is now proceeding at a consistently quicker pace. This demonstrates MyIPO's continued efforts to manage examination workload effectively and to facilitate rapid advancement of patent applications through the prosecution lifecycle.

In parallel, there has also been a significant increase in the issuance of patent Certificates of Grant in the first quarter of 2026. This improvement highlights a promising shift in clearing examination backlogs and granting applications. It also suggests that MyIPO is making progress in addressing downstream bottlenecks, even as delays persist at earlier stages of the application.

Overall, these developments present a mixed yet increasingly optimistic outlook for patent prosecution in Malaysia.

While delays in the issuance of preliminary examination reports remain a challenge that affects early-stage prosecution timelines, the increase in substantive examination activity and grant approvals suggest that the system is steadily gaining momentum and moving towards improved efficiency.

Industrial Design

In contrast to the developments in patent law, there have been no legislative updates to Malaysia's industrial design framework. The governing law remains unchanged, although certain shifts in administrative practice have been observed.

1. Novelty Examination for Malaysian Industrial Design Applications

Recent practice before MyIPO indicates a noticeable shift toward increased substantive examination of industrial design applications, particularly in relation to novelty.

While Malaysia has traditionally adopted a formalities-based examination approach, applicants are now increasingly encountering detailed novelty objections supported by citations of prior designs and publicly available disclosures. Notably, examiners appear more proactive in relying on online resources, citing product listings, catalogues and other internet disclosures as relevant prior art.

MyIPO examiners appear to be displaying a rather low tolerance for differences between the claimed design and prior art i.e. many differences that are deemed material to the design

applicant are frequently alleged by MyIPO to be minor and immaterial. Designs that differ only in insignificant visual details or do not produce a distinct overall impression are also more readily objected to.

Although our firm has had significant success in overcoming such objections, a monumental effort is required in the form of substantive arguments and supporting evidence, which generally leads to a delay in allowance and registration for the industrial design application.

Consequently, applicants should place greater emphasis on conducting pre-filing novelty searches, carefully assessing the registrability of the design and ensuring that the claimed design embodies clearly distinguishable visual features, and is not anticipated by prior art or that the difference(s) with prior art are not immaterial.

2. Representation Requirements and Absence of Partial Design Protection

An important development concerns the representation requirements for industrial design applications.

While the IPOJ now publishes registered designs in colour, colour itself continues to not be a recognised element of protection under Malaysia's industrial design law. Accordingly, the scope of protection remains tied to the visual features as expressed in the representations as-filed, and applicants should continue to exercise caution when relying on colour to convey distinctiveness.

In practice, Malaysian industrial design applications should be filed with clear and consistent representations of the design, typically in the form of line drawings. Where priority is claimed from jurisdictions such as the European Union, which permit the use of colour or shading (e.g. to disclaim certain features), if possible, such representations should be appropriately adapted for Malaysian filing requirements.

In particular, applicants are strongly advised to submit representations that clearly depict the same article, and where appropriate, use a combination of solid and broken lines to distinguish the features of interest (with novel features shown in solid lines).

As there is presently no concept of partial design protection under Malaysia's Industrial Designs Act, protection is granted in respect of the design as a whole. Nevertheless, it is generally understood that in an infringement action, greater emphasis will be placed on the portions of the design illustrated in solid lines.

The above notwithstanding, we have successfully prosecuted to registration, design applications having representations where colour has been used to disclaim certain features. In such instances, the Statement of Novelty will need to be carefully adapted to reflect the nature of the representations but still meet MyIPO's formality requirements.

3. Practice on Design Publication Fees

A further emerging practice relates to the designation of views for publication for industrial design applications.

While it has generally been permissible to designate a limited number of views (often only a single perspective view) for publication at the time of filing, MyIPO has recently shown a greater assertiveness when assessing whether the views designated for publication are sufficient to fully illustrate all features of the design.

Where the number of views is considered inadequate, applicants will be requested to designate additional views, with each additional view attracting additional official publication fees.

The obvious easy way out would be to designate all views filed for publication. But the significantly high quantum of official fees that needs to be paid makes such action prohibitive for most applicants.

As always, we continue to advocate a pragmatic approach that balances costs and legal compliance.

In light of the increased assertiveness by MyIPO, for almost all design applications, it will no longer be advisable to rely on a single designated view for publication even if the designated view is a perspective view.

Instead, we continue to encourage applicants to designate a sufficient number of views at the time of filing that can comprehensively illustrate the design and all of its relevant features. Often, this only requires a designation of one extra view, in addition to the perspective view.

This approach not only facilitates clearer illustration of the design but helps to mitigate the risk of objections or administrative delays arising from insufficient designation of views for publication.

Although increasingly assertive, MyIPO examiners can still be persuaded to accept a designation of a lower number of views instead of all views filed, if it can be shown that the views the applicant proposes to designate are indeed sufficient to illustrate all features of the design.

In conclusion, Malaysia's patent and design practices are undergoing significant changes aimed at aligning with global standards and enhancing intellectual property protection. The implementation of the post-grant opposition system lessens the need for costly legal actions by allowing interested parties to challenge granted patents in a less expensive way. This system is complemented by an updated Power of Attorney form that streamlines representation, alongside stricter scrutiny of signatory authority to ensure that only properly authorized individuals act on behalf of applicants or owners. At the same time, industrial

design practice is evolving to adopt a less lenient and more stringent approach to the assessment of novelty. Collectively, these developments underscore Malaysia's ongoing commitment to strengthening IP rights and promoting growth in the global innovation arena.