

Major Patent Law Reforms Take Effect: What You Need To Know Before 31 December 2025

21 November 2025

For more information, please contact:

Datuk D P Naban
naban@rdslawpartners.com

Austen Emmanuel Pereira
austen@rdslawpartners.com

Bahari Yeow Tien Hong
bahari@rdslawpartners.com

Farah Shuhadah Razali
farah@rdslawpartners.com

Kenny Lam Kian Yip
kenny@rdslawpartners.com

Lim Zhi Jian
jian@rdslawpartners.com

Michael Soo
michaelsoo@rdslawpartners.com

Rosli Dahlan
rosli@rdslawpartners.com

Steven Perian KC
speriankc@rdslawpartners.com

Vinayak Sri Ram
vinayak@rdslawpartners.com

Malaysia is preparing for a significant shift in its patent regime, with major reforms under the Patents (Amendment) Act 2022 and related regulations set to take effect on 31 December 2025.

A notice issued by the Registrar of Patents on 10 October 2025 (Notice 1/2025) confirms that several long-anticipated provisions together with new subsidiary legislation will finally be enforced, ushering in a more transparent and adversarial patent framework.

The changes carry wide-ranging implications for patent owners, applicants, agents and industry stakeholders, all of whom now have a two-month window to adapt.

Key Amendments Coming Into Force

A. Public Inspection Of Patent Filings

Section 34(1) of the Patents Act 1983 will require the Registrar to make a wide range of patent-application materials publicly available, upon payment of a prescribed fee, once the application has been published in the Official Journal.

The information subject to disclosure is extensive and includes:

- applicant and agent particulars;
- the application number;
- filing and priority data;
- the full specification, including amendments;
- ownership changes and licensing references;
- search and examination reports;
- applicant correspondence; and
- patent and non-patent literature citations submitted by any party.

Once disclosure occurs, applicants may issue written warnings to parties commercially working the invention and subsequently demand compensation either from the date of the warning or from the date of publication if no warning was issued. These compensation rights, however, do not displace the patentee's post-grant ability to sue for infringement.

B. Introduction Of Post-Grant Opposition

Perhaps the most consequential reform is the introduction of administrative post-grant opposition proceedings, enabled by Sections 55A and 56A and supported by the Patents (Amendment) Regulations 2025, the 1983 Directive and Practice Notice No. 1/2025.

Until now, the validity of a patent could be contested only through the courts, often a costly and protracted process. The new regime gives "any interested person" the right to challenge a granted patent before the Registrar, providing a faster and potentially more economical route.

1. Locus Standi: "Interested Person" vs "Aggrieved Person"

The threshold is notably broader than that for court-based invalidation actions. While an "aggrieved person" must show a direct adverse effect, an "interested person" casts a wider net, although an aggrieved person will almost always qualify. The distinction, reflected in *Heveafoam Asia Sdn Bhd v PF (Teknologi) Sdn Bhd* [2001] 2 MLJ 660, marks a deliberate policy shift towards greater accessibility.

2. Grounds Of Opposition

Opposition may be initiated on three grounds:

- the claimed subject matter is not an invention, is excluded under statute, or is not patentable due to non-compliance with Sections 11, 14, 15 or 16;
- the description or claims fail to comply with regulatory requirements; and
- essential drawings have not been furnished.

Notably absent is the court-based ground under Section 56(2)(d) that the right to the patent does not belong to the patentee reflecting a narrower administrative mandate.

3. Ban On Forum Shopping

To avoid parallel proceedings, opposition and court actions cannot run simultaneously.

If court proceedings concerning the patent are already on foot, opposition cannot be launched. Conversely, once an opposition is filed, the opposing party may not start court proceedings unless both parties consent or the opponent of the patent is sued for infringement, at which point the opposition must be withdrawn.

4. Foreign Opponents

Foreign opposers must lodge a security deposit of RM2,500 for patents (RM1,500 for utility innovations), in addition to filing fees.

5. *Patent Owners' Right To Defend And Amend*

Patent owners may contest the opposition by filing a counterstatement within three months, supported by a statutory declaration. They may also amend their patents during the process which is often the most strategic route to preserving validity.

Opponents may file evidence in reply within three months of the counterstatement or of any amendment.

6. *Decision-Making By Registrar And Committee*

An ad hoc opposition committee may be convened to advise the Registrar. It will typically hold two sittings:

- (a) Initial consideration of the evidentiary record and written submissions; if inclined to invalidate, the committee issues an interim decision and invites amendments.
- (b) Final assessment of whether any amendments cure the defects.

The Registrar may maintain the patent, maintain it as amended, or invalidate it. Costs may be awarded.

7. *Finality Of Proceedings*

If the Registrar upholds the patent, the opponent is barred from later bringing invalidation proceedings in court except:

- when invalidation is raised as a counterclaim in infringement litigation; or
- when appealing the Registrar's decision under Section 88.

8. *Limits On The Registrar's Amendment Powers*

The Registrar may not exercise Section 79A amendment powers where court or opposition proceedings concerning the patent's validity are ongoing.

Conclusion

Malaysia's patent landscape will undergo a structural shift at year's end. Key changes include:

- Greater transparency through mandatory public access to patent-application information.
- A new administrative opposition procedure, broadening access to validity challenges and offering a speedier, less costly alternative to litigation.
- Restrictions on unilateral amendments by the Registrar while validity is in dispute.

www.rdslawpartners.com

This publication is for educational and informational purposes only and is not intended and should not be construed as legal advice.

KUALA LUMPUR

Level 16, Menara 1 Dutamas No. 1, Jalan Dutamas 1,
Solaris Dutamas, 50480 Kuala Lumpur
T: +603 6209 5400
F: +603 6209 5411
enquiry@rdslawpartners.com

PENANG

Suite S-21E & F21st Floor, Menara Northam No.
55, Jalan Sultan Ahmad Shah, 10050 Penang
T: +604 370 1122
F: +604 370 5678
generalpg@rdslawpartners.com

JOHOR BAHRU

8-35, Menara Delima Satu, Jalan Forest City 1,
Pulau Satu, 81550 Gelang Patah, Johor Bahru
T: +607 585 6414
F: +607 509 7614
generaljb@rdslawpartners.com