Doing Business in the Philippines and IPR Basics

Waiting for the Organiser...

The webinar will begin shortly
WEBINAR

Doing Business in the Philippines and IPR Basics

08 August 2019 | 9:30 AM (BST) 4:30 PM (PH)
Welcome to the Webinar

Moderator:

Marta Bettinazzi
IP Business Advisor
South-East Asia IPR SME Helpdesk
Webinar Interaction Tools

Hide control panel here
Turn on full screen here
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Send the IP expert a question here

Webinar 24 hour technical support number:
http://support.gotomeeting.com ‘Contact Us’ section
Agenda

( Brussels time zone )

• 10:30 – 10:35: Introduction to the Helpdesk and its services.
  Marta Bettinazzi, IP Business Advisor

• 10:35 – 10:40: Introduction to the British Chamber of Commerce of the Philippines.
  Caroline Da Silva, Research and Project Officer

• 10:40 – 11:00: Introduction about doing Business in the Philippines.
  Alexander Dacanay, SGV, a member practice of Ernst & Young Global Ltd.
  • Philippines Business Landscape
  • Attractive Sectors
  • IPR issues related to sectors mentioned

• 11:00 – 11:20: IPR Basics.
  Edmund Jason Baranda, External Expert, SEA IPR SME Helpdesk
  • Why protect your IP?
  • IPR under the Philippine IP Code and related laws
  • Recent changes in IP laws and regulations (2018 to present)
  • Take-away tips

• 11:20 - 11:25: Q&A

• 11:25 - 11:30: Closing

SOUTH-EAST ASIA
IPR SME HELPDESK

question@southeastasia-iprhelpdesk.eu
www.ipr-hub.eu

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The voice of the British business community in the Philippines
What We Do

• Supports the development of our members’ business and social interest in the British and Philippine communities.

• Represents over 290 member companies and individuals with a membership network of 600 entrepreneurs and senior executives of multinational corporations and SMEs.
Overseas Partner Delivery

• Started in April 2014, in partnership with UK Department for International Trade

• Assists UK SMEs in various sectors to grow and expand their market reach

• Offers Business Support Services (BSS)
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BritishChamberPhilippines
British Chamber of Commerce Philippines
Speaker: Mr Alexander Dacanay
Senior Director, SGV
Philippine Business Landscape and Attractive Sectors

- Low-middle-income economy, with GDP/capita of **USD3,103** in 2018, and GNI/capita of **USD3,830** or GNI/capita (PPP) of **USD10,720**.

- Poised to reach the GNI/capita of **USD3,896** threshold for upper-middle-income economies by 2020.

- The Philippine economy is projected to grow at 6.7% a year in 2019-2024. Remains among the strong performers in ASEAN and Asia-Pacific economies.

- With rising incomes, more households spend on more discretionary goods and services.

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**Real GDP growth in %, 2013-2019Q1**

<table>
<thead>
<tr>
<th>Year</th>
<th>GDP Growth</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013</td>
<td>7.1</td>
</tr>
<tr>
<td>2014</td>
<td>6.1</td>
</tr>
<tr>
<td>2015</td>
<td>6.1</td>
</tr>
<tr>
<td>2016</td>
<td>6.9</td>
</tr>
<tr>
<td>2017</td>
<td>6.7</td>
</tr>
<tr>
<td>2018</td>
<td>6.2</td>
</tr>
<tr>
<td>2019Q1</td>
<td>5.6</td>
</tr>
</tbody>
</table>

Source: PSA National Accounts May 2019

**GDP growth among selected Asian peers, %**

<table>
<thead>
<tr>
<th></th>
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<tr>
<td>THA</td>
<td>3.1</td>
<td>3.5</td>
<td>5.2</td>
<td>4.8</td>
<td>5.0</td>
<td>5.3</td>
<td>6.9</td>
</tr>
<tr>
<td>MYS</td>
<td>5.2</td>
<td>4.8</td>
<td>5.0</td>
<td>5.3</td>
<td>6.9</td>
<td>6.6</td>
<td>6.4</td>
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<tr>
<td>IDN</td>
<td>5.0</td>
<td>5.3</td>
<td>6.9</td>
<td>6.6</td>
<td>6.5</td>
<td>6.7</td>
<td>7.6</td>
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<td>CHN</td>
<td>6.9</td>
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<td>6.5</td>
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<td>7.7</td>
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<td>IND</td>
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</tbody>
</table>

Source: PSA National Accounts, IMF WEO 2019

- **2013-2018**: Darker bars
- **2019-2024F**: Lighter bars
Key economic growth drivers
Consumer spending, remittances, call centers, and FDI

<table>
<thead>
<tr>
<th>Consumer spending (in trillion PHP)</th>
<th>Overseas remittances (in billion USD)</th>
<th>Offshoring revenues (in billion USD)</th>
<th>FDI Inflows (in billion USD)</th>
</tr>
</thead>
<tbody>
<tr>
<td>9%</td>
<td>4%</td>
<td>8%</td>
<td>14%</td>
</tr>
<tr>
<td>9.2</td>
<td>25</td>
<td>16</td>
<td>5.7</td>
</tr>
<tr>
<td>9.8</td>
<td>26</td>
<td>17</td>
<td>5.6</td>
</tr>
<tr>
<td>10.7</td>
<td>27</td>
<td>20</td>
<td>8.3</td>
</tr>
<tr>
<td>11.6</td>
<td>28</td>
<td>21</td>
<td>10.3</td>
</tr>
<tr>
<td>12.9</td>
<td>29</td>
<td>21</td>
<td>9.8</td>
</tr>
</tbody>
</table>

- Grew 9% a year to PhP12.9 trillion or **USD244 billion** in 2018, almost three-fourths of GDP.
- Grew 4% a year to **USD29 billion** in 2018.
- Reached **USD21.2 billion** in 2018.
- Reached **USD9.8 billion** in 2018.
- The fourth biggest recipient of remittances behind India, China, and Mexico.
- A leading business process outsourcing or BPO destination in Asia.
- S&P and JCR upgraded Philippine credit ratings to a notch away from “A” territory rating.

Sources: BSP, IBPAP, PSA, Tholons, US News & World Report
GDP reached PhP17.4 trillion or USD331 billion in 2018

Manufacturing, trade, and real estate sectors account for half of the economic output.

NCR, Calabarzon, and Central Luzon regions account for 61% of the economic output.

Source: PSA National Accounts April 2019
Philippine regional development

**Philippines:** 300,000 km²  
**GDP:** USD331b, 2018  
**Population:** 107m  
**GDP/capita:** USD3,104

**NCR:** USD9,513/cap  
▲ Financial and commercial capital, government center  
▲ Center of excellence, a leading BPO destination in Asia  
▲ Predominantly service-driven economy, but minimal agricultural and natural resources.

**Rest of Luzon:** USD2,421/cap  
▲ CALABARZON hosts special economic zones or SEZs, Central & Northern Luzon have growth hubs  
▲ Mainly driven by its industry sector, representing 46% of the area’s total regional output or GRDP  
▲ Hosts eight (8) of the country’s Next Wave Cities for BPOs.

**Visayas:** USD2,071/cap  
▲ Comprised of four administrative island regions  
▲ Includes Metro Cebu, the second most-populous metropolitan area after the NCR.  
▲ Hosts popular island resorts like the Boracay

**Visayas:** USD2,071/cap  
▲ Rich agricultural and mineral resources.  
▲ Primary source of leading agricultural and fishery exports, e.g., cavendish bananas, coconut, pineapple, and tuna products.

Source: PSA National Accounts April 2019
Consumer spending reached PhP12.9 trillion or USD244 billion in 2018

► Food and beverages accounted for close to half of household spending.
► More affluent households spend relatively less on food and beverages, and more on housing & utilities, transport, education, restaurants & hotels, and other goods & services.

Source: National Accounts, PSA Q4 2018

### Consumer spending by category

<table>
<thead>
<tr>
<th>Category</th>
<th>% Share</th>
</tr>
</thead>
<tbody>
<tr>
<td>Food &amp; non-alcoholic beverages</td>
<td>43%</td>
</tr>
<tr>
<td>Housing, utilities</td>
<td>12%</td>
</tr>
<tr>
<td>Transport</td>
<td>11%</td>
</tr>
<tr>
<td>Education</td>
<td>4%</td>
</tr>
<tr>
<td>Resto, hotels</td>
<td>4%</td>
</tr>
<tr>
<td>Furnishings</td>
<td>3%</td>
</tr>
<tr>
<td>Health</td>
<td>3%</td>
</tr>
<tr>
<td>Communication</td>
<td>3%</td>
</tr>
<tr>
<td>Recreation</td>
<td>2%</td>
</tr>
<tr>
<td>Clothing</td>
<td>1%</td>
</tr>
<tr>
<td>Alcoholic bev, Tobacco</td>
<td>1%</td>
</tr>
<tr>
<td>Others</td>
<td>13%</td>
</tr>
</tbody>
</table>

Source: PSA Family Income and Expenditure Survey 2015

### Spending Pattern of Filipino Households

#### Bottom 20% Households

- Food & non-alcoholic beverages: 43%
- Housing, utilities: 12%
- Transport: 11%
- Education: 4%
- Resto, hotels: 4%
- Furnishings: 3%
- Health: 3%
- Communication: 3%
- Recreation: 2%
- Clothing: 1%
- Alcoholic bev, Tobacco: 1%
- Others: 13%

#### Top 20% Households

- Food & non-alcoholic beverages: 43%
- Housing, utilities: 12%
- Transport: 11%
- Education: 4%
- Resto, hotels: 4%
- Furnishings: 3%
- Health: 3%
- Communication: 3%
- Recreation: 2%
- Clothing: 1%
- Alcoholic bev, Tobacco: 1%
- Others: 13%

Source: PSA Family Income and Expenditure Survey 2015
Philippine infrastructure & construction sector

► Sector will be one of the fast-growing markets in the country and in ASEAN.
► Government’s “Build Build Build” program is investing PhP8 trillion or USD160 billion in 2016-2022, to push up public infrastructure share to GDP to 7% by 2022.
► The program covers airports, roads, railways, sea ports, dams & irrigation projects, as well as health facilities and school buildings.
► The program is open to foreign assistance and public-private-partnership or PPP arrangements for priority and regional projects.
► Opportunities for Increasing demand for power and water utilities amid the current ageing and inadequate facilities in the NCR and emerging urban areas.
► Increased deployment of renewable energy sources like solar and wind in the non-grid and rural areas.
► Private construction opportunities to complement public infrastructure with the expansion of housing, commercial, and industrial building projects outside the NCR.
Philippine agribusiness & food sector

► Big young population, rising incomes, and improving distribution channels will sustain growth of the agribusiness & food sector.
► Food staples rice, fish, and meat have significant shares of household spending.
► Philippines is a leading producer and exporter of tropical products, e.g., cavendish bananas, mangoes, pineapple, coconut, and fish products.
► Philippines is net importer of rice, corn, and meat products.

► Food manufacturing grew at 5.4% a year, reaching USD32 billion or half of total manufacturing output in 2018.
► Hotels and restaurants subsector grew at 6.9% a year and reached over USD6 billion in 2018.
► Local food conglomerates can compete with leading MNC food producers and food service chains.
► Government has prioritized the improvement of agricultural productivity.
Philippine manufacturing & electronics sector

- Philippine manufacturing grew at about 7% a year, reached USD63 billion or 19% of GDP in 2018.
- The key manufacturing subsectors are food & beverages, electronics, chemicals, and petroleum products, all four subsectors adding up to over three-fourths of manufacturing output.
- The capital-related subsectors like basic metals, fabricated metals, machinery & equipment, rubber and plastics grew at double-digit rates in support of the needs of the Build Build Build projects.

- Philippine electronics subsector is the second biggest manufacturing subsector with 11% share.
- The electronics subsector’s output is geared primarily for exports, which reached USD38 billion or 56% of total exports in 2018.
- The subsector covers primarily semiconductor manufacturing services or SMS (73%) and electronics manufacturing services or EMS (27%).
- Many global players are located in SEZs in Calabarzon, Central Luzon, and Cebu.
Philippine BPO & IT sector

- The Philippine BPO sector grew at about 8% a year in 2014-2018. IBPAP estimated revenues at USD24.6 billion in 2018.
- The Philippines became the “Call Center Capital”, then the “BPO Capital of the World”, because of high English proficiency and competitive rates.
- The local industry covers high-value subsectors such as: Contact center & BPO; IT services; Health information management (HIM); Animation and game development; and Global in-house Center.
- IT-BPM Roadmap 2022 targets to earn USD39 billion in revenues and employ 1.8 million workers.
- AT Kearney ranked the Philippines among the global industry leaders based on financial attractiveness, people skills and availability, business environment, and digital resonance.
- Tholons “Top 50 Digital Nations” ranked the Philippines #2 while the “Top 100 Supercities” included six Philippine cities - Manila, Cebu, Davao, Sta. Rosa Laguna, Bacolod, and Iloilo.
Objectives and priorities for next three years

- Overarching objectives
  - GDP growth of 7%-8%
  - Achieve the upper middle-income economy status
  - Bring down poverty rate to 14%.

- Economic priorities
  - Accelerate Build Build Build program to reach 7% of GDP by 2022
  - Pursue tax reform packages
  - Pursue reforms to increase FDI and jobs
  - Improve productivity of agriculture.
Thank you
Doing Business in the Philippines and IPR Basics

Edmund Jason Baranda
SEA IPR SME Helpdesk, External Expert
8 August 2019
The Basics of Philippine IPR - Outline

1. Why protect your IP?

2. IPR under the Philippine IP Code and related laws

3. Recent changes in IP laws and regulations (2018 to present)

4. Case study

5. Take-aways
Poll question 1:

Have you registered your IPs in the Philippines?

A. Yes
B. No
1. Why protect your IP?

2. IPR under the Philippine IP Code and related laws

3. Recent changes in IP laws and regulations (2018 to present)

4. Case study

5. Take-aways
Why protect your IP?

- Protection against infringers
- Significant investment is required to commercialize a novel technology
- Companies want to invest in opportunities that can be protected from the competition
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Republic Act No. 8293 or the Intellectual Property Code of the Philippines ("IP Code")

- Trademarks
- Copyrights
- Patents and utility models
- Industrial designs
- Trade secrets
- Geographical Indications

Republic Act No. 8293 or the Intellectual Property Code of the Philippines (“IP Code”)

- Trademark - any visible sign capable of distinguishing the goods or services of an enterprise and shall include a stamped or marked container of goods

- Bad faith registrations
  - TM watch and oppose

- Can secure registration in 4 to 8 months, if there is no objection/opposition

- Proof of use requirement
  - 3rd year from date of filing
  - 5th year from date of registration
Republic Act No. 8293 or the Intellectual Property Code of the Philippines ("IP Code")

• Copyright - Legal protection extended to the author of an original literary/artistic work

• Protected from the moment of their creation.

• Term of protection is generally the life of the author + 50 years
Republic Act No. 8293 or the Intellectual Property Code of the Philippines (“IP Code”)

- Patent - a government-granted limited term monopoly (20 years) to exclude others from using an invention

Patentable inventions
- Any technical solution of a problem in any field of human activity which is
  - new/novel - not prior art
  - involves an inventive step – not obvious to a person skilled in the art
  - industrially applicable – useful, for practical purpose
Republic Act No. 8293 or the Intellectual Property Code of the Philippines ("IP Code")

- Utility model – same definition as an "invention" but inventive step is not required

- For "low-level" technology that may be obsolete in a few years

- Term is shorter: 7 years

- Useful if immediate enforcement is desired
Republic Act No. 8293 or the Intellectual Property Code of the Philippines ("IP Code")

- Trade secrets – No definition/specific IP regulations on trade secrets

- Requirements for protection based on jurisprudence:
  - Secret
  - Has commercial value because it is secret
  - Subject to reasonable steps to keep it secret

- As such, IP owner must provide guidelines/security mechanisms to protect trade secrets from unauthorized disclosure
  - Contracts/agreements must have non-disclosure provisions
Republic Act No. 8293 or the Intellectual Property Code of the Philippines (“IP Code”)

• Geographical Indications (GIs) mentioned as an IP Right but no definition and no sui generis system for the registration of GIs

• “An appellation of origin is constituted by the name of a country, of a region or of a locality serving to designate a product which originates from there and the quality or character of which is due to the geographical location, comprising natural and man-made factors.” [CIVC definition]

• Public consultation conducted for draft regulations way back in 2015
Republic Act No. 8293 or the Intellectual Property Code of the Philippines ("IP Code")

• Stop-gap measure: GI as collective mark
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5. Take-aways
Poll question 2:

How was the general experience/perception of the IP registration process in the Philippines?

A. Slow
B. Fast
C. Same pace as my home Registry
Patent Examination Guidelines (January 2018)

• Information Communications Technology and Computer Implemented Inventions (ICT and CII Guidelines)

• Guidelines for Examination of Patent Applications in the Field of Biotechnology

• Examination of Pharmaceutical Applications Involving Known Substances (QUAMA Guide)
Republic Act No. 11293 (Philippine Innovation Act)

• State’s investment in education, science, technology and innovation

• Creation of the National Innovation Council (NIC) to identify priority areas for innovation and to help MSMEs by supporting programs for innovation

• Whole of government approach will be adopted

• A joint web portal with information on innovation policies, strategies, programs, services, grants and financial assistance will be made available for public access
  • EU SMEs in the innovative fields may access the same/apply for grants and financial assistance
Republic Act No. 11337 (Innovative Startup Act)

• Provides incentives to innovative startups

• Benefits include the following:
  • Waived fees in application for government permits and certificates
  • Grants-in-aid for research, development and expansion projects
  • Exemption from fees and charges of the government for use of equipment, facilities or service
  • Subsidy for visa application, renewal or extension of foreign owners and exemption from alien employment permit

• Will an EU SME qualify as an innovative startup?
  → An innovative startup is:
    o Any registered business entity in the Philippines; and
    o With core business function involving product, process or business model innovation
The Basics of Philippine IPR - Outline

1. Why protect your IP?

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5. Take-aways
Are EU SMEs required to be licensed to do business in the Philippines to be entitled to IPR protection?


- The capacity to sue of La Chemise Lacoste in filing an unfair competition complaint was challenged for not being licensed to do business in the Philippines.

<table>
<thead>
<tr>
<th>Cannot sue</th>
<th>Can sue</th>
</tr>
</thead>
<tbody>
<tr>
<td>A foreign corporation not licensed to do business in PH but is doing business in the PH cannot sue before PH courts.</td>
<td>A foreign corporation not licensed to do business in the PH and <em>not</em> doing business in the PH can sue before PH courts.</td>
</tr>
</tbody>
</table>

- LACOSTE products are marketed in PH by the exclusive distributor Rustan’s, which is an independent entity marketing various products and brands. Rustan’s is not an agent or extension of La Chemise Lacoste in PH. Therefore, La Chemise Lacoste is not doing business in PH.

- Also, pursuant to Paris Convention, PH extends protection/legal remedies available in PH to nationals of other countries of the Convention.
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5. Take-aways
Take-aways

• Registration of IP is a must as basis to enforce rights against infringers and to protect your IP from bad-faith applications.

• PH has an effective IP system in place that may be tapped by IP owners for enforcement.

• Be aware of incentives/benefits available to your business, especially if your core business involves product, process or business model innovation.
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