



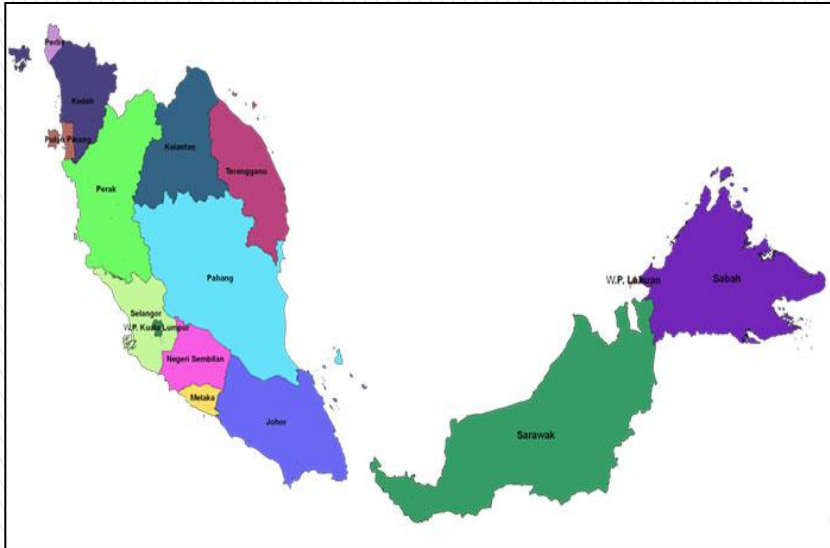
AN OVERVIEW ON THE PROTECTION OF INTELLECTUAL PROPERTY (IP) IN MALAYSIA

SCOPE OF PRESENTATION

- a. Introduction & quick facts on Malaysia
- b. Enforcement Division, MDTCC
- c. The importance of IP Protection
- d. IP Protection in Malaysia
- e. Legislations that govern IP rights in Malaysia and amendments on CA 1987 & TDA 2011
- f. Enforcement mechanism and statutes related.
 - ❖ **Copyright Act 1987 (CA 1987)**
 - ❖ **Trade Description Act 2011 (TDA 2011)**
- g. Government agencies involved in IP Protection
- h. Challenges Faced in IP Protection
- i. Provisions of Anti Money Laundering and Anti Terrorism Financing Act 2001 (AMLATFA)
- j. General offences on copyright & counterfeiting
- k. Statistic of IP cases 2012-2013
- l. Conclusion

a. Introduction & quick facts on Malaysia

MAP OF MALAYSIA



14 STATES IN MALAYSIA

Area	329,758 square km
Population	29.3 million
Capital city	Kuala Lumpur

People & Language

Malays 57% others are Chinese, Indian, Bumiputeras and other races make up the rest of the country's population.

Malay is the national language, the many ethnic groups also converse in their various languages and dialects, but English is also widely spoken.

Islam is the official religion, but other religions such as Buddhism and Christianity are widely and freely practised.

Currency

The monetary unit of the country is Ringgit Malaysia and is written as RM or MYR.

The exchange rate is valued at USD1 = RM3.15. Notes are available in RM1, RM5, RM10, RM20, RM50, and RM100 denominations, while coins are issued in 5, 10, 20 and 50 sen (cents) denominations.

Foreign currencies can be exchanged at banks and money changers.

Time

Eight hours ahead of GMT and 16 hours ahead of U.S Standard Time.

Electricity

Voltage is 220 - 240 Volt AC at 50 cycles per second. Malaysia uses standard 3-pin square plugs and sockets.

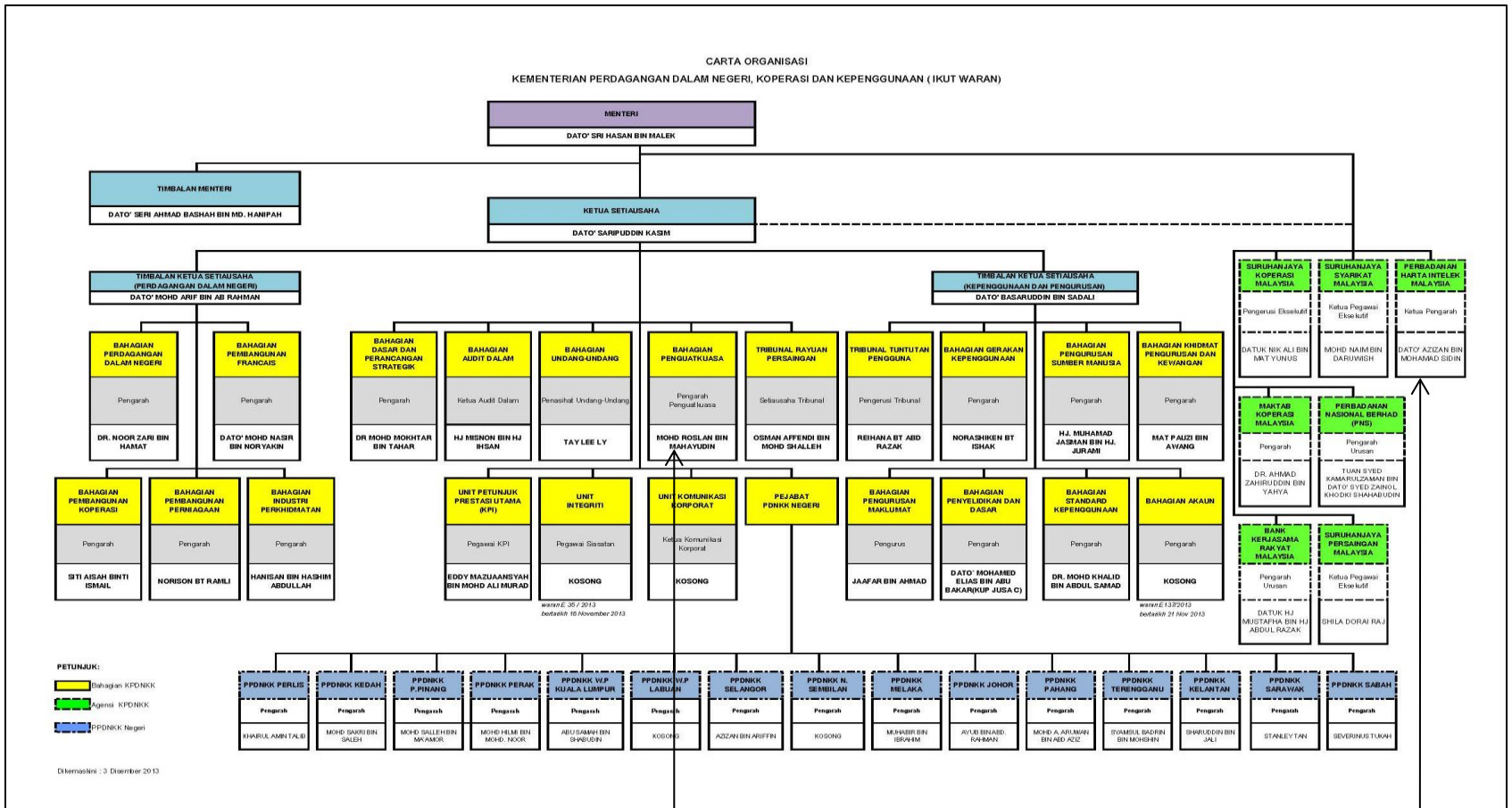
Weight & Measurement

Malaysia follows the metric system for weight and measurement.

Telecommunications

Local calls can be made from public phones using coins or prepaid card. International calls can also be made using phone cards or at any Telekom office.

MDTCC ORGANIZATION CHART 2014



**ENFORCEMENT DIVISION
MINISTRY OF DOMESTIC TRADE,
CO-OPERATIVE AND CONSUMERISME (MDTCC)**



b. Enforcement Division, Ministry of Domestic Trade, Cooperatives and Consumerism Malaysia (MDTCC)



OBJECTIVE

- ❑ To enforce 10 laws pertaining to IP and consumerism, including Anti Money Laundering & Anti Terrorism Financing Act (AMLATFA) 2001

MISSION

To combat all forms of malpractices, exploitation and profiteering that puts consumers at a disadvantage whilst promoting ethical trade practices for the benefit of consumers and traders

STRENGTH

Formed in 1972
2185 officers (1850)
72 branches in 14 states

f. The Importance Of IPR Protection

- To avoid the influx of piracy / counterfeiting goods in an open market ,
- Piracy/counterfeiting can lead to economic instability due to crime
- IPR protection is essential for the development of Malaysia's Multimedia Super Corridor (MSC)
- A form of incentive for legitimate trade or economic investment in Malaysia

- ❑ Malaysia pledged to be the leader in IP Protection in the region. Enforcement Division of MDTCC plays an important role to realise it.

- ❑ Protect all investments made in new growth areas identified under the 9th Malaysia Plan (2006-2010) and the 3rd Industrial Master Plan (MITI- 2006- 2020)

- ❑ Protect international companies with manufacturing operations in Malaysia e.g. GE, Motorola, Intel and Western Digital

c. IP Protection in Malaysia

- ❑ Continuous steps/efforts taken by Government
- ❑ IPR regime are in compliance with international best practices
- ❑ Provide adequate protection to both local and foreign applicants
- ❑ Intellectual Property Corporation of Malaysia (MyIPO) is the custodian of IP law in Malaysia, but have no enforcement mechanism.

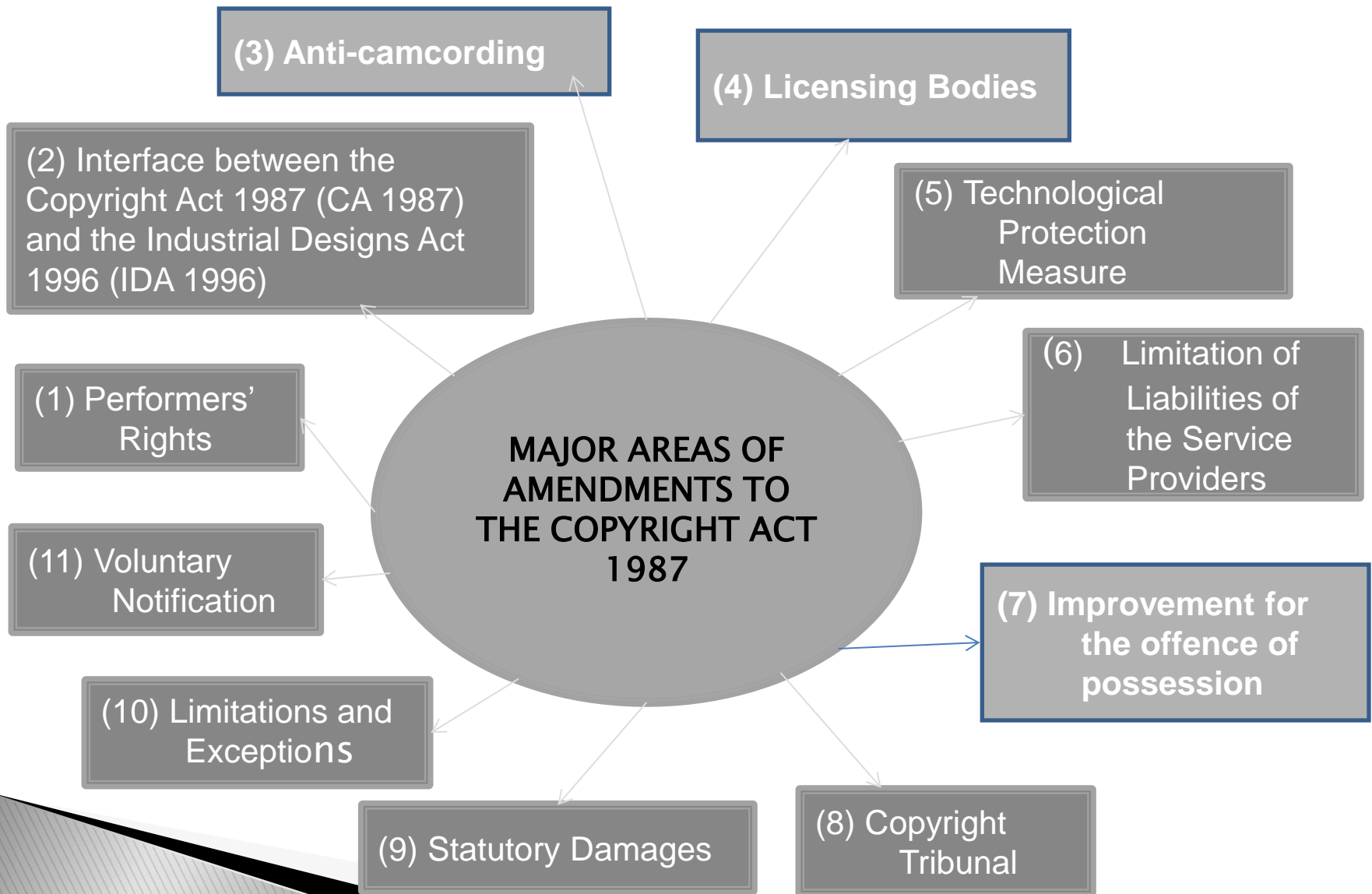
- ❑ Enforcement of criminal IP is under the jurisdiction of Enforcement Division.
- ❑ Criminal enforcement under CA 1987 and TDA 2011.
- ❑ Malaysia was placed in the USTR Priority Watch List in 2000 and 2001. In 2002, significant improvements were done on IPR protection. Malaysia was then removed from the Priority Watch List. In 2012 Malaysia was removed from the Watch List.

- Several steps taken by the government to combat piracy and counterfeit goods:-
 - **Special Task Force Committee** : combat piracy and counterfeit at all levels, by sharing informations, joint operations and conducting education programmes to the public; comprise various enforcement agencies :
 - Clean up shopping malls
 - Stop the downloading; take down infringing websites
 - Business compliant; combat software piracy
 - Cripple piracy syndicates
 - Amendments of CA 1987 and TDA 2011
 - Establishment of IP Court (July 2007)

d. Legislations that govern IP rights in Malaysia and amendments on CA 1987 & TDA 2011

- ❑ Trade Marks Act 1976
- ❑ Patents Act 1983
- ❑ Copyright Act 1987
- ❑ Industrial Designs Act 1996
- ❑ Geographical Indication Act 2000
- ❑ Layout Design and Integrated Circuit Act 2000
- ❑ Trade Descriptions Act 2011

COPYRIGHT ACT 1987 –AMENDMENTS 2010



TRADE DESCRIPTIONS ACT 2011 (AMENDMENTS 2011)



- various improvements for the purpose of further enhancing the effectiveness of quasi-criminal action in counterfeiting cases

- has specifically laid down provisions on trademark violation and provide for the criminal sanction for such action

e. Enforcement Mechanism and Statutes Related

- ❑ Enforcement Officers would take the necessary action upon receiving complaints from the IP owner.
- ❑ Criminal sanctions for IP infringement are available under the Copyrights Act 1987 for cases of piracy and the Trade Descriptions Act 2011 for cases of counterfeiting.
- ❑ Both statutes has been amended several times.
- ❑ CA 1987 protects: Literary works, Musical works, Artistic works, Films, Sound Recordings, Broadcasts, and Performers. No registration, but MyIPO will accept on basis of voluntary notification (after the new amendments of the Act)
- ❑ TDA 2011 protects: registered trade marks, and unregistered trade marks (via TDO).

g. Government agencies involved in IP Protection in Malaysia



h. Challenges Faced in IP Protection

- Indifferent attitude of consumers
- Preference for cheaper options
- Indistinguishable counterfeits and pirated products
- Disrespect/ignorant for IP rights

- ❑ Pirated CD/VCD/DVD/Game/Software
- ❑ Counterfeit medicine/food supplements/
- ❑ Counterfeit auto parts/lubricants
- ❑ Adulterated liquors
- ❑ Parallel imported products

- ❑ Pirated/counterfeit goods are much cheaper
- ❑ Sophisticated technology -similar to the original product.
- ❑ Smuggling / influx of counterfeit goods from foreign countries. e.g goods from China
- ❑ Syndicated crime/easy money

i. Provision of AMLATFA 2001

(Anti-Money Laundering and Anti-Terrorism Financing Act 2001)

- ❑ Offences under CA 1987 & TDA 2011 are considered serious offences and listed as “predicated offences” under AMLATFA
- ❑ Government has the power to seize and freeze any proceeds of crime (property, bank account, business ...etc.)

j. General Offences on Copyright

(Section 41 Copyright Act 1987)

- manufacture, importation, possession, public exhibition and distribution of, and commercial dealing in, infringing copies;
- causing a literary or musical work to be performed in public;
- making or possessing any contrivance used or intended to be used for making infringing copies;
- circumvention of effective technological measures as mentioned above;
- removal or alteration of electronic rights management information;
- unauthorized distribution or importation of works or copies of works in respect of which electronic rights management information has been removed or altered.

Penalties for copyright cases

Individual	Body corporate
<p>1st offence- a fine of not less than RM2000 (US\$635) and not more than RM20000 (US\$6350) for each infringing copy, or to imprisonment for a term not exceeding five years or to both</p>	<p>Every director, chief executive officer, chief operating officer, secretary, manager or other similar officer of the body corporate or every other partner in the firm ... shall be deemed to be guilty of the offence and may be charged severally or jointly in the same proceedings</p>
<p>2nd & subsequent offences- fine of not less than RM4000 (US\$1270) and not more than RM40000 (US\$ 12700) for each infringing copy or to imprisonment for a term not exceeding ten years or to both;</p>	

General Offences on counterfeiting

(Section 8 Trade Descriptions Act 2011)

- ❑ applies a false trade description to any goods as if the goods were subject to any rights relating to registered trade mark;
- ❑ supplies or offers to supply any goods to which a false trade description is applied as if the goods were subject to any rights relating to registered trade mark; or
- ❑ exposes for supply or has in his possession, custody or control for supply any goods to which a false trade description is applied

Penalties for counterfeiting cases

(Section 8 TDA 2011)

Individual	Body corporate
<p>1st offence- Fine not exceeding RM 10000 (US\$3175) for EACH goods bearing the infringing mark, or 3 years imprisonment, or BOTH</p>	<p>1st offence- Fine not exceeding RM 150000 (US\$4762) for EACH goods bearing the infringing mark</p>
<p>2nd & subsequent offence- Fine not exceeding RM 20000 (US\$6350) for EACH goods bearing the infringing mark, or 5 years imprisonment, or BOTH</p>	<p>2nd & subsequent offence- Fine not exceeding RM 30000 (US\$9524) for EACH goods bearing the infringing mark,</p>

k. Statistic of IP cases 2012-2013

ACTS	YEAR		TOTAL NO. OF CASES	VALUE OF SEIZURES (RM)
	2012	2013		
Counterfeit Goods	934	784	1,718	22,544,000 (US\$ 7.2 million)
Piracy	1,541	1,105	2,646	16,909,256 (US\$5.4 million)

I. Conclusion.

- ❑ A strong enforcement regime and successful prosecution are the main deterrent factors to curb IPR Crimes.
- ❑ Collaborations and co-operations with the industry players are highly needed and hence have proven fruitful.
- ❑ The Malaysian Government is continuously and aggressively making efforts to further reduce IPR Crimes

THANK YOU