



ASIAN PATENT ATTORNEYS ASSOCIATION
19th General Assembly and the 70th Council Meetings
Grand Hyatt
Taipei, Taiwan

WORKSHOP 2

Title and Summary of Presentations
Sunday, 10 November 2019

People are increasingly able to undertake genetic analysis to determine their own genetic code. Service providers such as Family Tree DNA, 23andMe, Ancestry DNA etc. will sequence a person's genetic code on request. In addition biometrics are becoming an increasingly popular authentication mechanism, with many computing devices (including telephones and laptops) nowadays being secured by fingerprint readers or facial recognition cameras. Information such as genetic codes and biometric data cannot be easily altered, and are highly personal. Who should own this data? Should this data be the subject of IP protection, and if so, what regimes are, or should be available, to protect this data? Does the increased availability of this data have any other IP implications?



WORKSHOP 2

“Biometric Data and Genetic Code: Privacy and Protection. What Regime Will Govern?”

MODERATOR



Ms. Susan Yee
Moderator

Susan Yee is a principal and patent attorney in the Silicon Valley office of Schwegman Lundberg Woessner. Susan has a degree in aeronautical engineering and over 20 years of legal practice. Susan counsels both U.S. and foreign clients on the unique challenges facing businesses in building market share, boosting corporate value, and protecting intellectual property. Her legal experience includes handling both software and hardware matters in areas such as network systems, multimedia technologies, business methodologies, e-commerce, data management systems, and transportation systems.

Ms. Susan Yee
Principal
Schwegman Lundberg Woessner
Silicon Valley, CA, USA

Ms. Susan Yee will facilitate the introduction of the panel members and preside the workshop session.

The session will begin with the speakers' presentations to be followed by a brief reactor's comments after the fourth speaker.

Ms. Yee will facilitate a robust discussion of the workshop topic and encourage interaction between and among the panel members and the audience.

Ms. Yee will open the floor for Q&A.



SPEAKERS



Dr. Pawel Piotrowicz
Speaker

Pawel is a UK and European patent attorney with over 20 years' experience advising on protecting intellectual property.

He specialises in high tech fields including electronics and software and represents a wide-variety of clients including universities and research institutions based in the UK, US and in Asia. His areas of expertise include semiconductor devices, embedded systems, power electronics, automotive electronics, nanotechnology, spintronics, printed electronics, RFID devices, telecommunications, computer networks, computer simulation, optical systems, sensors and medical devices.

Pawel prepared and prosecuted the Pedestrian simulation/ CONNOR case, G1/19, which earlier this year was referred to the Enlarged Board of Appeal at the European Patent Office, the Office's highest court, and which is only the second software case ever to be referred to the Enlarged Board.

Pawel has been commended in the Legal 500, Managing Intellectual Property IP Stars and IAM Patent 1000.

Dr. Pawel Piotrowicz
Partner, Patent Attorney
Venner Shipley
Cambridge, United Kingdom

Title: "Privacy and Data Protection in Europe"

The General Data Protection Regulation (GDPR) came into force on 25 May 2018 and has the overarching aim of protecting privacy and dealing with data breaches. The Regulation reaches well beyond the borders of Europe since it applies not only to organisations located in the European Union (EU) but also to those outside the EU if those organisations offer goods or services to, or monitor the behaviour of, EU data subjects. It applies to organisations processing and holding personal data of data subjects residing in the EU. The GDPR affects all forms of organisations including companies, hospitals and universities, and covers a wide range of personal data including data concerning health, genetic data and biometric data. Organisations, wherever they are based, need to be alert to GDPR since failure to comply with the Regulation can be costly: companies can be fined up to 4% of annual global turnover for non-compliance.



Dr. Yusuke Ichikawa
Speaker

Dr. Ichikawa is a registered and qualified patent attorney at Anderson Mori & Tomotsune. He has been involved with various patent matters, conducting research, litigation and licensing, and is well versed in international and domestic application and registration procedures and intermediate procedures.

He specializes in the fields of electronics technologies as well as technologies applicable to computer software, semiconductors, telecommunications and mechanical devices.

He received the M. Eng. and Dr. Eng. degrees in computer science from Waseda University, Tokyo, Japan, in 2003 and 2007, respectively. He is also a registered and qualified lawyer in California. He is one of the authors of the Japanese Patent Law - Cases and Comments, Max Planck Series on Asian Intellectual Property Law, Vol 17, published from Kluwer Law International B.V. in 2019.

Dr. Yusuke Ichikawa
Patent Attorney
Anderson Mori & Tomotsune
Japan

Title: “Recent Developments of Protection and Effective Use on Biometric Data in Japan”

Biometric data is highly personal information and the unregulated use would seriously and adversely affect human rights. On the other hand, an effective use of the biometric data would facilitate efficient procedures to identify people by machines.

On balance, Japanese relevant laws imposed some limitations for the exploitation of the biometric data, while some reasonable process is prepared for the efficient applications.

The presentation will discuss possible regimes that may govern protection of data which are highly personal in nature. Particularly, recent developments of relevant laws are overviewed and the efficient applications of the biometric data are explored.



Ms. Hsiu-Ru Chien
Speaker

As an attorney-at-law and also a certified patent attorney, Hsiu-Ru heads the Patent and Technology Department of Lee and Li since 2019, and has extensive experience in patent prosecution, patent infringement litigation, patent invalidation actions and administrative remedy procedures. She passed the Chinese patent bar exam in 2013.

Hsiu-Ru graduated from the Zoology Department (now reorganised as the Life Science Department), Science College of the National Taiwan University, and obtained two Masters degrees respectively from the National Chiao-Tung University (Master of Management Science) and the National Cheng-Chi University, Department of Law (LLM).

Hsiu-Ru served as the Chair of the International Affairs Committee of the Taiwan Patent Attorneys Association (TWPAAs) in 2016, and now is the Secretary General of the TWPAAs. She lectures as a Specialist Assistant Professor at the Shih Hsin University. She was honored as the Leading Patent and Trade Mark

Ms. Hsiu-Ru Chien
Partner
Lee & Li Law Firm
Taipei

Title: "The Protection of Biometric Data and Genetic Code in Taiwan: From the Aspect of Privacy and Patent Rights"

It is generally difficult or even impossible to change individual DNA sequences, and physical features such as fingerprint, palm print, palm shape, iris, face, voiceprint, and others. Since positive identification of individuals can be based on these biometric characteristics or genetic codes, privacy concerns have rendered them "sensitive information," demanding meaningful protection. In Taiwan, the Personal Information Protection Act, Privacy Protection Norms in Biomedical Research, and the Human Biological Database Management Act all provide such protection.

At the same time, the potential market value of such biometric data and DNA sequences is attracting increasing levels of attention. Currently, biometric data is collected and applied in authentication measures for financial and communication services, and, with respect to genetic code, in 2004, the Taiwan Administrative Yuan commenced development of the Taiwan Biobank to collect DNA sequences of the citizenry, reaching preliminary establishment in 2007. The possibility of protecting this information via patent rights has also come increasingly under



<p>Attorney of the Year in 2019 Leading Adviser Awards, Leading Patent and Trade Mark Attorney of the Year in Acquisition International's 2019 Leading Adviser Awards, and Distinguished Practitioner for Intellectual Property 2020 in Asialaw Leading Lawyers.</p>	<p>discussion.</p> <p>Are the measures outlined sufficient to provide security for biometric data and genetic code? Further, what manner of potential disputes does the future hold?</p> <p>This topic provides an overview of the issues described as well as current Taiwan Practice.</p>
 <p>Mr. Bahari Yeow Tien Hong Speaker</p> <p>Heading the Tier 1 (Legal 500) IP & TMT practice of the Firm, Bahari is ranked a Leading Individual (Legal 500) and a Ranked Lawyer (Chambers Asia Pacific, Band 2) for his experience and knowledge in the field of Intellectual Property. Bahari is also named by the In-House Community as Commended External Counsel, notably for being "resourceful, perceptive, approachable and ever willing to help".</p> <p>Bahari is a qualified patent, trade mark and industrial design agent. He also sits as a Panellist at the Asian International Arbitration Centre (Domain Name Dispute Resolution). He currently serves as a member of the Group Standing Committee for Copyright (2015-2018) of the Asian Patent Attorney Association (APAA) Malaysia.</p>	<p>Mr. Bahari Yeow Tien Hong Partner Lee Hishammuddin Allen & Gledhill Kuala Lumpur, Malaysia</p> <p>Title: "The Future of Genetic Data: How Malaysia Regulate Biometrics"</p> <p>This is a general overview of some of the key legislations and landmark decisions that have been made internationally on this topic, including the repercussions and strengths of the legislation and decisions, applicability in Asia/Malaysia, and what still needs to be considered. The discussion will include the proposed new National Digital ID in Malaysia, to possibly be implemented next year. It is not a replacement for the MyKad. The objective behind it is for use in e-commerce and e-payments - it stores biometric information as well as passwords, usernames, etc for 'advanced user authentication'. Supposedly, it's meant to boost security and eliminate the need for credit cards, passwords, etc. However, the blueprint for the proposed Malaysian framework is to be based on the current Digital ID system in India, which since its introduction in 2010, has already been subject to numerous court cases and scandals regarding leaks of private biometric information, the availability and hackability of the data stored on the ID, etc. MCMC has recognised the need for new frameworks and legislation to</p>



Bahari has authored several publications, and regularly invited to speak, such as in events organized by Lawasia IP, the International Malaysian Law Conference, Legal 500, Malaysian Intellectual Property Association, Asian International Arbitration Center, Institute for Democracy and Economic Affairs, University Malaya, the Malaysian Bar and State Bars.

govern the National Digital ID in Malaysia. In this talk, we would discuss India as a case study for how such a Digital ID may work in Malaysia, including the known pitfalls, and propose what legal framework may be best/necessary to minimize privacy intrusions.

REACTOR



Mr. A. Ferdinand S. Fider
Reactor

Mr. Fider is the Head of the Angara Abello Concepcion Regala & Cruz Law Offices - Intellectual Property (IP) Department. He teaches IP Law in the University of the Philippines and the De La Salle University. Mr. Fider obtained his Master of Laws (1990) from Queen Mary and Westfield College, University of London. He received his Bachelor of Laws (1986) from the University of the Philippines..

His academic publications include the Philippine chapter of five authoritative textbooks published by Kluwer Law International (London) as part of the Max Planck Series on Asian Intellectual Property Law and the Applied Research Center for Intellectual Assets and the Law in Asia, Singapore Management University.

Mr. A. Ferdinand S. Fider

Senior Partner
Angara Abello Concepcion Regala & Cruz
Philippines

Mr. A. Ferdinand S. Fider will summarize and comment on the speakers' presentations.

In the presentations of **Dr. Pawel Piotrowicz**, **Dr. Yusuke Ichikawa**, **Ms. Hsiu-Ru Chien** and **Mr. Bahari Yeow Tien Hong**, Mr. Fider's comment will refer to the underlying questions common to all four presentations: whether there are meaningful protections afforded by law and regulations to data subjects and sensitive information given the facility to secure this information; and whether the increased availability of data have any other IP implications.