

June 02/2014

- Interview with Re-elected President, Sheena Jacob
- LES Singapore Holds 15th Annual General Meeting (AGM)
- “Right to Be Forgotten” and Purpose Limitation Principle in Data Protection Laws
- Visit by Yvonne Chua, Immediate Past President of LES International



LICENSING EXECUTIVES SOCIETY
SINGAPORE

upcoming events

Interview with Re-elected LES Singapore President, Sheena Jacob



On 29 May 2014, Licensing Executives Society (Singapore) held its yearly AGM, in which one of the agendas was to elect the board of directors.

Sheena Jacob, president from 2013-2014, was re-elected to head LES Singapore for another year. Upon her re-election, .Connect had a chance to interview Sheena on her thoughts.

Congratulations for being elected again. Can you please tell us how you feel?

I feel privileged to be elected again and am looking forward to serving the membership and working closely with the executive committee. I am also pleased to have alongside the very competent Dr Elissa Lim on board as Vice-President.

You have been the President for the last year. What makes you want to run again, this year?

One year does seem to fly by so quickly and although I was able to implement some initiatives such as the revamped website and the newsletter, I believe there is much more to be done.

Please tell us some of your more memorable experiences in your last term.

I was very pleased with the launch of the newsletter .Connect - a first for LES Singapore and to have the support of George Hwang as editor. I was also struck by the support from the immediate Past President of LESI, Yvonne Chua, who embraced her presence at one of our events. And finally, we have had the privilege of collaborating with a number of organizations including IP Academy, WIPO, A*STAR and IPOS.

Are there any projects which you wanted to implement last year but could not, due to various reasons? If yes, what are they?

I wanted to plan a better membership program to increase the number of members and study the possibility of introducing an advanced licensing course.

Would you like to implement them this year? If yes, why? If not, why?

Yes, I would very much like to do so this year as I believe these projects are beneficial for the society.

Are there any new projects you wish to introduce this term?

As mentioned, I am hoping to galvanize the members to have greater engagement with the society as well as increase the size and raise the profile of LES Singapore membership. In particular, I would like to focus on increasing the numbers of our young members. I am also hoping more members will come forward to serve on the executive committee or subcommittees bringing with them new ideas. With more hands on deck, we can certainly aim higher.

What are the changes you would like to see in LES Singapore, especially, taking into account your new projects?

I would like to introduce a Young Members subcommittee and am looking for volunteers. I hope to organize a special event for young members very soon.

Besides “.Connect”, which is your initiative, how do you think you can get the LES members within Singapore to interact and/or LES members to interact with the other societies in the region and LESI?

We hope to get more members involved in the LES International committees. I also intend to communicate with members via email on a more regular basis this year. The greater the number of touch points we have with members, the more likely we are to connect with them and benefit from all their talent and ideas.

LES Singapore Holds 15th Annual General Meeting (AGM)

29 May 2014

Christopher Ang

The Licensing Executives Society of Singapore (LES Singapore) held its 15th Annual General Meeting on 29 May 2014. Sheena Jacob, the President of LES Singapore, gave a word of welcome prior to calling the meeting to order and presenting the President's Report to the Committee.

President's Report

The President's Report provided attendees with a comprehensive summary of the significant developments and events undertaken by LES Singapore in the past year. The noteworthy developments were the launch of LES Singapore's revamped website and the launch of its Quarterly Newsletter, ".Connect". The inaugural issue of the newsletter appeared in August 2013.

Aside from these developments, the President's Report touched on the wide range of events that took place in the latter half of 2013 and early 2014 which involved LES Singapore's support and participation. These events include the joint LES Singapore-A STAR Seminar, the Global Forum on Intellectual Property, the TechInnovation Conference & Exhibition, LES Singapore Basic Licensing Course and the 4th LES Pacific Regional Conference.

Several events, in particular, received added mention in the Report due to their significance for the Society. These were the;

- October 2013 LES Asia Pacific Student Business Competition in Hangzhou, China, which involved mentorship from Dr. Sze and Mr. Alfred Yip, a committee member and the incumbent treasurer of LES Singapore respectively.
- 18 November 2013 visit from a delegation from LES Japan
- 18 March 2014 Licensing Executive Society International (LESI) President's visit

- Joining Hands initiative launched by the immediate past LESI President

Presentation of Audited Accounts & Amendment of the LES Singapore Constitution

Attendees of the AGM were also presented with the Treasurer's Report which, as of February 2014, showed a standing balance standing of SGD 72,655.21. An important amendment was also passed in relation to Article 5.14 of LES Singapore's Constitution, which has the effect of extending the maximum term which a Treasurer may serve for.

Election of Office Bearers 2014/2015

Lastly, the nominated office bearers for 2014/2015 were accepted, and are as follows:

President

Sheena Jacob

Vice-President

Elissa Lim

Secretary

Wern Lee Song

Treasurer

Alfred Yip

Members

Chiew Yu Sarn

S. Sivananthan

Karol Goh

Sze Tiam Lin

Audrey Yap

Suresh Sachi

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Personal Data Protection: It is clearly a privacy issue

Lim You Xiang/George Hwang

The Court of Justice of the European Union's (CJEU) decision in *Google Spain v AEPD and Mario Costeja Gonzalez*¹ made waves last month because it ruled that search engines are data controllers and extended principles of the right to access and to object onto include the "right to be forgotten". Closer home, in Hong Kong last year, the Privacy Commissioner in the "Do No Evil" case² held that an aggregator of information in the public domain has breached the purpose limitation principle of its Personal Data (Privacy) Ordinance.

Both cases deal with information which have found its way, legally, into the public domain. In the law of confidential information, such information are no longer protectable. However, in privacy laws, whilst such information are available in/to the public e.g. dining in a restaurant³ or walking on the street with a knife in hand in the throes of suicide⁴, the law prevents them from being spread. In simple terms, it prevents information in the public domain from being more public.

These two cases consolidate the position that personal data protection law protects privacy rather than confidential information. Whether these decisions will influence the interpretation of

¹ *Google Spain SL, Google Inc. v Agencia Española de Protección de Datos, Mario Costeja González* [2014] ECJ C-131/12

² *Hong Kong Privacy Commissioner for Personal Data (PCPD) [2013] Report R13-9744*

³ *Von Hannover v Germany* [2004] ECHR 294

⁴ *Peck v UK* [2003] ECHR 44

Singapore's Personal Data Protection Act (PDPA) which comes into effect on 2 July 2014 remains to be seen.

Google Spain v AEPD and Mario Costeja Gonzalez

Mario Costeja González, a Spanish national, relied on the EU Data Directive to sue a newspaper publisher and Google over announcements published in 1998 about an auction for his foreclosed home. While the debts have been paid long ago, the information was still available via Google Search more than a decade later. The matter consequently wound up in the CJEU, which then clarified how the EU Directive should be construed with reference to online search engines.

The main crux of the ruling by the highest court in the EU was that search engine operators such as Google must consider wishes from individuals to remove links to freely accessible third party web pages resulting from a search made on basis of their name. This is the case even if the information linked is not prejudicial to the individual. Moreover, this obligation remains even if the personal information has not been removed by the webpages from which the data originated. This means that while the information might still be in the public domain, search engines nevertheless must delink this webpages if necessary under the EU Directive.

Of note is the court's opinion that given the ubiquitous nature and considerable ease of information access via the Internet, search engines play a far more important role in the protection of privacy and personal data protection than media publishers do. The processing of data by Google allows users to ascertain a more or less detailed profile of an individual. This greater influence on the fundamental right to privacy by internet search engines was brought up by the court in its ruling. Furthermore, the court even held that, as a general rule, an individual's fundamental right to privacy and data protection should override that of the public interest in having that information and definitely the economic interests of the search engine.

“Do No Evil” Smartphone Application

The report by the Office of the Privacy Commissioner was based on an investigation conducted upon four complaints citing concerns that a certain smartphone application had contravened the Hong Kong Personal Data (Privacy) Ordinance.

Shrewdly named “Do No Evil”, the application collected litigation, bankruptcy and company directorship data of individuals from different public sources and collated these data such that users can access them for the purpose of conducting background checks.

While all the information could be found on the public registers from which they originated, the Commissioner found that personal data gleaned from the public domain was not available for unrestricted use. The Commissioner highlighted that the service provided by the App had seriously contravened with the original stated purpose of the personal data that was publicly available. The App had greatly deviated from the explicit/implied purposes established in the public registers from which the information was gathered. Such use of legitimate records was found to have exceeded the reasonable expectations of data subjects as to how their information would be used. As such, the smartphone application was told to cease disclosing all of the personal data.

In the report, it was observed that an individual does not surrender his right to data privacy by virtue of disclosing data in the public domain. The Commissioner pointed out the severe risks of intrusion on privacy rights if publicly available personal data is to be profiled and aggregated for the convenience of others. Additionally, the lack of restriction or monitoring of which the data could be further used was seen as aggravating to personal privacy.

Interestingly, the Hong Kong report also pointed toward a “right to be forgotten” in its investigation, where it found that the smartphone application had not prescribed a retention period for the personal data, undermining any offender’s chance of rehabilitation.

Citing other legislation such as the Bankruptcy Ordinance which offers time limits on retention of bankruptcy records, the Commissioner opined that the smartphone application could have potentially “adversely and indefinitely affected persons” that have been adjudicated bankrupt or sued against before, thus being unfair to these individuals’ rights.

Observations

Whilst the EU case made waves because it affected search engines and is one of the few cases on the concept of “the right to be forgotten” internationally, it is the Hong Kong case which has wider applicability. “The right to be forgotten” applies mainly to old information whilst the purpose limitation principle referred to by the Hong Kong Privacy Commissioner could apply to both old and current data. Telemarketers using a telephone book could potentially be in breach of the purpose limitation principle, since the purposes of a telephone book is to identify phone numbers of individuals and not for the purpose of marketing calls.

The Schedules on the exceptions to getting consent for collection, use and disclosure in the Act include information in the public domain. Whether the Commission or the courts will limit the scope of the exceptions like these two cases remain to be seen.

These cases interpreted the personal data protection laws in view of express rights to privacy provisions in constitutional documents. For the Google case, it is a regional human rights convention, European Convention on Human Rights, and the Charter of Fundamental Rights of the EU. For the “Do No Evil” case, it is the Hong Kong Bill of Rights Ordinance. In Singapore, where we have no express provisions on privacy in our Constitution, it will be interesting to see how the court will decide should this point be raised.

Unlike the common law of confidential information which existed before independence, hence accepted as law of the land by virtue of Article 162 of the Singapore Constitution,

protection of informational privacy is a statutory right⁵ which the government has delayed in introducing till 2012. We need to know where the rights of the data subjects are derived before we can balance them against the interests of the data users⁶.

Conclusion

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Visit by Yvonne Chua, Immediate Past President of LES International

18 March 2014

About 30 members of Licensing Executives Society (LES) Singapore took the afternoon off on Tuesday, 18th March 2014, to take part in an interesting seminar session on current developments in Intellectual Property and Licensing around the region. The event was organised by LES Singapore and hosted by IP Academy at the Intellectual Property Office of Singapore (IPOS). This event was graced by guest-of-honour, LES International President for year 2013/2014 Yvonne Chua on occasion of her visit to LES Singapore. Guy L. Proulx, Sheena Jacob, Suresh Sachi, Karol Goh and Audrey Yap, who are all members of LES Singapore, were invited to take part in the panel session.

Ms Yvonne Chua, who flew in from Hong Kong for the event, was the featured speaker. She shared her thoughts on recent trends in IP in Asia Pacific. Yvonne revealed the various IP related statistics from around the region, noting the proliferation of IP registrations amongst most Asian countries, especially in China. She pointed out the swift upsurge of IP filings which not only highlighted the rising importance of IP within Asia but also the region as an IP powerhouse.

Further, Yvonne shared with the audience legislative amendments which strengthen enforcement procedures in certain countries around the region. She drew attention to the stricter penalties introduced, such as higher damages for infringement awarded in China and Philippines; simplification of IP filing in Malaysia and tightening of legal framework in Vietnam and Indonesia. Yvonne emphasized that these are all positive developments to the region, making Asia Pacific a better place for foreign markets and investors.

⁵ X Pte Ltd and another v CDE [1992] 2 SLR(R) 575; [1992] SGHC 229

⁶ PDPA 2012, Section 3: The purpose of this Act is to govern the collection ... of personal data by organisations in a manner that recognises both the right of individuals to protect their personal data and the need of organisations...



Immediate Past President LES International Yvonne Chua (center) with President LES Singapore Sheena Jacob (far right) and members of LES Singapore

During the panel session, the speakers spoke about the “Approaches to Licensing in Different Technology Areas”. The panel discussed the topic of licensing in information technology (IT) and communication technology, extensively. Amongst the numerous sub-topics were the licensing of standard essential patents (SEPs), IP litigation between big technological conglomerates and changes in the licensing environment around the region. Members of the audience posed thoughtful questions to the panel of five.

After the session, current LES Singapore president Sheena Jacob thanked Yvonne Chua for her invaluable time to honour this seminar with her presence.

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Submission of Articles

We are always looking for articles and news within the LES area of interests. If you would like to contribute, please submit your articles to either:

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