

Case Summary: *Nq Say Keong (trading as S & K Solid Wood Doors) v Jia Le Aluminium Pte Ltd and another* [2025] SGHC 243:

Overview:

The Singapore High Court (“**SGHC**”) found in favour of the Claimant, a sole proprietor and patent owner, on his claim for *passing off*, while dismissing his claim for patent infringement.

The SGHC’s decision on infringement turned on the *purposive approach* to patent claim construction, under which the allegedly infringing product must be found to possess *every* essential element of the patent claim, properly construed, before infringement can be established.

Separately, on the *passing off* claim, the SGHC’s decision illustrates how a mark that is not inherently distinctive may nonetheless be the basis for a successful claim where the claimant can show that it has acquired distinctiveness through substantial use.

Case facts:

The Claimant is the sole proprietor of a local business, S & K Solid Wood Doors, which deals in doors and door-related products. The Claimant is the patent owner of Singapore Patent No. 10201401033R for a slide-and-swing door invention (the “**SK Patent**”). The Claimant sold slide-and-swing door products (the “**SK Door**”) pursuant to the SK Patent, and estimates that approximately 350,000 SK Doors had been sold in Singapore to date.

Jia Le Aluminium Pte Ltd and 9 Power Aluminium & Glass Pte Ltd (collectively, the **Defendants**) are Singapore-registered private companies in the business of aluminium products, including doors. The directors of both Defendant companies are also directors of a Malaysia-registered company (“**SD Door Malaysia**”) which manufactures and exports a competing slide-and-swing door known as the “**SD Door**”. SD Door Malaysia was incorporated by a former employee of the Claimant.

In 2023, an existing customer of the Claimant alerted him that a relative, while renovating their home, had been sold doors by the Defendants’ employees who had referred to the products as “**SK Doors**”. The Claimant subsequently engaged a private investigator, who attended the Defendants’ showroom, and wherein the Defendants’ salesman offered to sell a door he described as an “**SK Door**”. Upon the Claimant’s purchase and further inspection, the Claimant confirmed that the door delivered was not a genuine SK Door and was instead an SD Door.

The Claimant commenced proceedings in the High Court in March 2024, alleging that the Defendants had (i) infringed the SK Patent by making, importing, offering to sell and selling the SD Doors in Singapore, and (ii) that the Defendants committed the tort of *passing off* by misrepresenting the SD Doors as genuine SK Doors.

Issue 1: Patent validity and infringement

Validity:

The Defendants challenged the validity of the SK Patent under Section 80(1)(a) of the *Patents Act 1994*, relying on a sole Japanese patent publication as prior art. The SGHC held that it was required to independently assess validity notwithstanding that the same prior art had already been considered by the IPOS examiner during prosecution. Having conducted its own assessment, the SGHC found the SK Patent, and all of its relevant claims, to be valid.

The SGHC's finding that the SK Patent was valid was also a substantial success for the Claimant given that the joint neutral expert witness had wrongly concluded that some of the dependent Claims were to be considered not novel and/or inventive. However, given that Claim 1 was found to be both novel and inventive, it followed that all the dependent Claims therefor, when read together with Claim 1, were thus to also be considered novel and inventive.

Infringement:

Applying the *purposive approach* to claim construction endorsed by the Singapore Court of Appeal in *Lee Tat Cheng v Maka GPS Technologies Pte Ltd* [2018] SGCA 18, the SGHC held that an allegedly infringing product will only infringe if it possesses **every** essential element of the relevant patent claim.

The dispute centred on the construction of the terms “**elongated slot**” and “**the slots**” in Claim 1 of the SK Patent, and whether these referred to the same or different structural features. The SGHC preferred the joint neutral expert witnesses' interpretation; that both references described the same feature, present in the bottom horizontal bar of **both** door panels. As the SD Door was found to have the relevant slot in only one of its two door panels, the SGHC held that the SD Door fell outside the scope of the SK Patent's claims and dismissed the infringement claim.

Notably, the SGHC's approach reaffirms that Singapore does not recognise a *doctrine of equivalents* of the kind adopted by the UK Supreme Court in *Actavis UK Ltd v Eli Lilly & Co* [2017] UKSC 48. As held in *Lee Tat Cheng* at [51]-[53], such a doctrine is inconsistent with Section 113 of the *Patents Act*, and the purposive approach was preferred as striking the appropriate balance between fair protection for patentees and legal certainty for third parties.

Issue 2: Passing off

Next, SGHC found in the Claimant's favour for his claim in passing off, holding that all three elements: goodwill, misrepresentation, and likelihood of damage, were established:

1. Goodwill

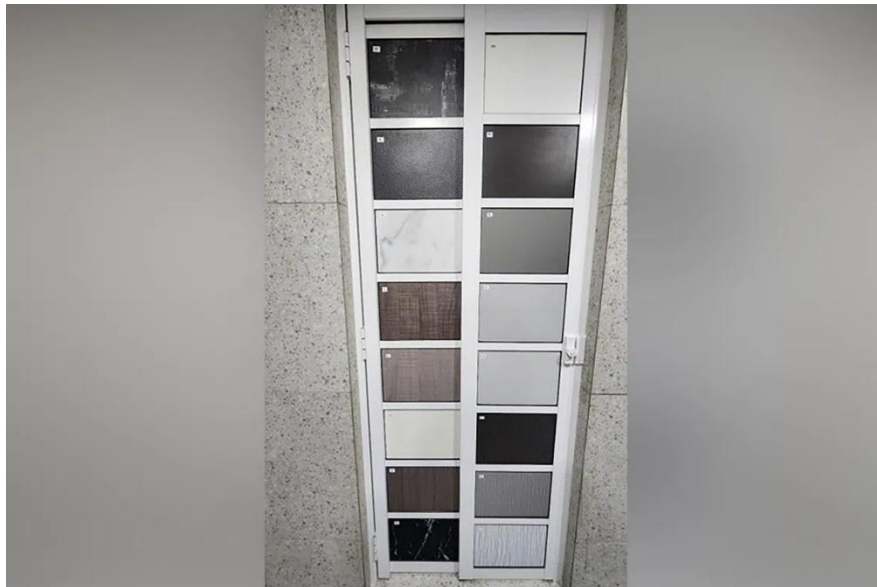
The sale of approximately 350,000 SK Doors, coupled with increasing revenue and the prominent, longstanding use of the “SK” name, was sufficient to establish goodwill in Singapore.

2. Misrepresentation

The SGHC first considered whether “SK” was inherently distinctive of the Claimant’s business. On this point, the Claimant argued that “SK” was his initials, referring to his name “Say Keong”.

Although “SK” bore no obvious reference to the character or quality of the doors, the SGHC found it to be a common two-letter combination and therefore difficult to regard as inherently distinctive on its own. However, the Claimant’s substantial and longstanding use of “SK” was found to have given the mark *acquired* distinctiveness.

On that basis, misrepresentation was established, having regard to the Defendants’ consistent references to the SD Doors as “SK Doors” (including in “Measurement Slips” and “Work Orders”), and their use of an actual SK Door as a showroom sample (pictured below).



(Source: <https://www.straitstimes.com/business/spore-inventor-wins-high-court-suit-with-rivals-found-to-have-passed-off-doors-as-his-design>)

At the trial, the Defendants’ director maintained that the SK Door sample was used as nothing more than their companies’ own bathroom door. This was, however, flatly rejected by the SGHC.

Other examples, that the SGHC took into consideration, of passing off by the Defendants was the fact that the terms “SK” and/or “SK Door” were handwritten on “Measurement Slips” or “Work Orders” which were given to the Defendants’ customers. However, under cross-examination, the Defendants’ witness admitted that the Defendants’ SD Doors would instead be supplied to these customers.

Of particular note too was that the founder of SD Door Malaysia was a former employee of the Claimant, and he thus acquired intimate knowledge of the Claimant’s business and

manufacturing processes while under the Claimant's employ. When questioned why he chose the name "SD Door", he gave implausible explanations for the same. The former employee argued that it was merely a coincidence and insisted that it simply meant to reference his company's name. Hence, the SD Door product was meant to stand for "Supreme Door Door".

However, the SGHC accepted the Claimant's position on the matter instead.

The Claimant argued that the acronym "SD" was used for many years by the Claimant as a prefix for the SK Door product codes in the Claimant's product brochures. This was bolstered too by the Defendants' own director's contradictory testimony, where he believed "SD" referred to "slide-and-swing doors". Hence, the use of the acronym "SD" by the Defendants was found to allude to and reference the Claimant's SK Doors as set out in their product brochures and which were freely and extensively available to potential and/or existing customers through the Claimant's various online websites and social media pages.

In *contra*, the Defendants attempted to argue that the element of confusion was not made out.

The Defendants submitted that the Claimant did not prove that any customer was confused, and that there was no evidence that any member of the public was indeed misled or confused. The SGHC, however, entirely disagreed with the Defendants. The SGHC affirmed the precedent decision in *Hai Tong Co (Pte) Ltd v Ventree Singapore Pte Ltd and Anor* [2013] 2 SLR 941 at [100], and that evidence of actual confusion, while helpful to the Court, is not absolutely required and the lack thereof should not be accorded undue significance.

3. Likelihood of damage

Given the parties' direct competition in the same field of business, the similarity of the marks, and the likelihood of confusion found above, the SGHC held that a likelihood of damage followed equally.

The SGHC also had regard to the Court of Appeal's observations in *The Singapore Professional Golfers' Association v Chen Eng Waye and others* [2013] SGCA 18 at [41], that an intention to deceive is not a necessary element of passing off, but where such an intention is shown, the courts are more readily inclined to infer that the defendant succeeded in causing the confusion intended.

The liability for passing off having been established, damages were to be assessed at a separate hearing.

Conclusion:

With regard to patents, the importance of claim drafting cannot be understated. In this case, the outcome turned entirely on the choice of two (2) terms used: "elongated slot" versus "the slots"; proving that a patent may be valid as a matter of law yet fail to provide meaningful protection where ambiguities in the claims lead a court, applying a purposive construction, to

interpret them against the patentee.

On the passing off claim, this case is an example of how inherent distinctiveness is not a prerequisite for protection. A mark may acquire distinctiveness through sustained and prominent use in trade, and once such goodwill is established, a defendant's conduct can itself provide compelling evidence of misrepresentation. Here, the defendant's use of the claimant's mark to describe its own rival product strongly supported the finding that consumers would associate the mark with the claimant's goods.

Taken together, this case brings to light the complementary nature of patent and passing off protection. Patents provide technical innovation, but their effectiveness depends heavily on the precise language of the claims contained therein. Passing off, in contrast, protects commercial goodwill and reputation. Hence, by combining strong patent protection with effective brand-building, complementary forms of protection can then be established and the risk of being left without an effective remedy is thereby reduced.



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Should you have any queries as to how this update may affect you or your organisation or require further information, please do not hesitate to email us.

This article is intended to highlight key legal and practical considerations regarding the factors taken into account by the SGHC in patent infringement and passing off. It is not intended to be comprehensive, nor should it be construed as legal advice. This article is updated as of 8 September 2026.

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