

Chapter 4

Intellectual property use in Malaysia: Statistics

This chapter provides an overview of the available statistical evidence on the use of intellectual property (IP) in Malaysia. It compares Malaysia's performance to that of other economies, including neighbouring member countries of the Association of Southeast Asian Nations (ASEAN). The chapter analyses the uptake of different types of IP in Malaysia and their use: patents, utility models, trademarks, industrial designs, geographical indications and copyrights.

Malaysian residents have significantly increased their use of some types of IP in the past ten years, and are ahead of other countries in the region in some respects (Table 4.1). The most important increases in usage relative to other countries occurred in patent applications: Malaysia moved from 45th to 31st position in the global ranking of resident patent applications between 2003 and 2012, reflecting a three-fold increase in the number of patent applications, from 376 to 1 114. By contrast, Malaysian residents are modest users of utility models.

Table 4.1. **GDP, population and IP applications, residents and non-residents, by filing office, 2013**

	GDP per capita (USD)	GDP (USD billions)	Population (millions)	Patents		Utility Models		Trademarks		Industrial Designs	
				Resident	Non-resident	Resident	Non-resident	Resident	Non-resident	Resident	Non-resident
Indonesia	3 475	868	249.9	633 (9% of total)	6 787 (91%)	233 (67%)	116 (33%)	44 288 (73%)	16 695 (27%)	2 771 (65%)	1 488 (35%)
Malaysia	10 538	313	29.7	1 199 (17%)	6 006 (83%)	70 (48%)	75 (52%)	14 705 (46%)	17 520 (54%)	679 (33%)	1 374 (67%)
Philippines	2 765	272	98.4	220 (7%)	3 065 (93%)	743 (96%)	32 (4%)	12 269 (54%)	10 416 (46%)	887 (64%)	489 (36%)
Thailand	5 779	387	67.0	1 572 (21%)	5 832 (79%)	1 561 (97%)	48 (3%)	27 881 (60%)	18 216 (40%)	2 774 (73%)	1 028 (27%)
Singapore	55 182	298	5.4	1 143 (12%)	8 579 (88%)	na	na	4 787 (23%)	16 181 (77%)	720 (30%)	1 673 (70%)
Viet Nam	1 911	171	89.7	443 (11%)	3 552 (89%)	226 (83%)	47 (17%)	24 629 (68%)	11 825 (32%)	1 362 (65%)	733 (35%)
India	1 499	1 877	1 252.1	10 669 (25%)	32 362 (75%)	na	na	183 172 (91%)	17 597 (9%)	5 182 (61%)	3315 (39%)
China	6 807	9 240	1 357.4	704 936 (85%)	120 200 (15%)	885 226 (99%)	7 136 (1%)	1 733 (94%)	115 494 (6%)	644 398 (98%)	15 165 (2%)
Germany	46 269	3 730	80.6	47 353 (75%)	15 814 (25%)	11 644 (75%)	3 826 (25%)	57 039 (88%)	7 787 (12%)	5 871 (90%)	672 (10%)
Japan	38 634	4 920	127.3	271 731 (83%)	56 705 (17%)	5 965 (78%)	1 657 (22%)	92 486 (79%)	24 712 (21%)	26 407 (85%)	4 718 (15%)
United States	53 042	16 768	316.1	287 831 (50%)	283 781 (50%)	na	na	270 761 (79%)	71 526 (21%)	20 271 (56%)	15 763 (44%)

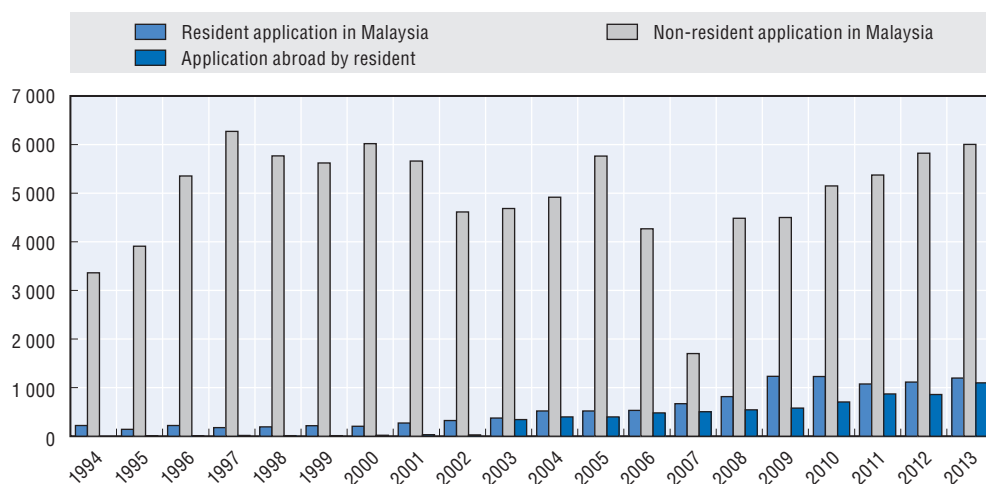
Note: GDP per capita and GDP are given in USD.

Source: WIPO Statistics (database) for numbers of patents, utility models, trademarks and industrial design applications; World Bank (2015), Data (database) for GDP per capita, GDP and population.

4.1. Patents

In 2013, the large majority of applications for Malaysian patents (83%) were filed by non-residents. Since the end of the 1990s, non-residents have filed an annual average of 5 000 patent applications in Malaysia. Residents, in contrast, have filed fewer than 1 000 applications per year, but their number of filings has increased considerably in the past five years, exceeding 1 000 applications per year since 2009 (Figure 4.1). This increase in resident patent applications has gone hand in hand with government efforts to promote the use of patents in Malaysia. Note that the drop in 2007 is due to the entry of Malaysia into the Patent Co-operation Treaty (PCT) system, which led to a shift in patent applications to the World Intellectual Property Organization (WIPO).

Figure 4.1. Patent applications in Malaysia



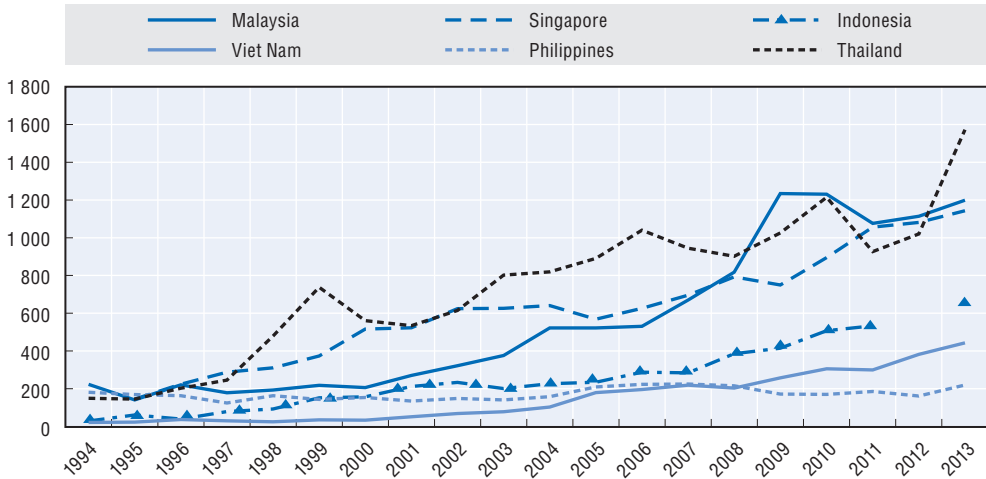
Note: A resident application is an application filed with an IP office by an applicant residing in the country in which that office has jurisdiction. A non-resident application is an application filed with a patent office of a given country/jurisdiction by an applicant residing in another country. An application abroad is an application filed by a resident of a given country/jurisdiction with a patent office of another country/jurisdiction.

Source: WIPO Statistics (database).

In terms of resident patents filed under PCT, an indicator of the expected commercial value of the invention on foreign markets, Malaysia fell a few positions in the world ranking, from 33rd in 2003 to 37th in 2012. The number of patent applications was 376 in 2003 and 1 114 in 2012 (WIPO, 2015c). Since 2006, Malaysian applicants have substantially increased their use of the PCT system to file patents internationally (Figure 4.3).

More than 5 000 PCT applications filed by non-residents entered the national phase in Malaysia in 2013, significantly more than entered the national phase in the Philippines and Viet Nam (both big countries in terms of

Figure 4.2. Resident patent applications for selected ASEAN IP offices



Source: WIPO Statistics (database).

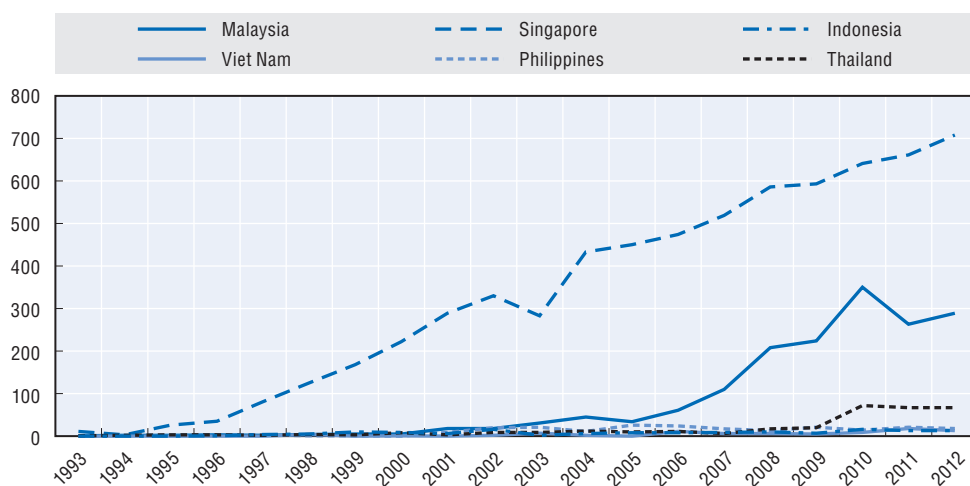
population but with much lower GDP), and close to the PCT national phase entries from non-residents in Singapore, Indonesia and Thailand (Table 4.2). The number of non-resident PCT applications reflects the importance of foreign direct investment in Malaysia from multinationals in the electrical and electronics sector, as well as the importance of Malaysia's GDP per capita, which makes it an attractive export market. Relative to its GDP and its population, PCT applications by non-residents in Malaysia are lower than the applications in Singapore but higher than the applications in Thailand (Table 4.2).

Table 4.2. PCT national phase entry by resident and non-resident, 2013

	PCT national phase entry applications			PCT national phase entry applications relative to GDP (in million USD)			PCT national phase entry applications relative to million population		
	Resident	Non-resident	Abroad	Resident	Non-resident	Abroad	Resident	Non-resident	Abroad
Indonesia	7	6 122	52	0.01	7.05	0.06	0.03	24.50	0.21
Malaysia	32	5 252	592	0.10	16.77	1.89	1.08	176.84	19.93
Philippines	2	2 745	40	0.01	10.09	0.15	0.02	27.90	0.41
Thailand	538	5 066	148	1.39	13.08	0.38	8.03	75.61	2.21
Singapore	303	6 254	2 224	1.02	20.99	7.46	56.11	1158.15	411.85
Viet Nam	2	3 061	34	0.01	17.86	0.20	0.02	34.12	0.38
India	172	27 420	4 173	0.09	14.61	2.22	0.14	21.90	3.33
China	2 923	69 944	15 940	0.32	7.57	1.73	2.15	51.53	11.74
Germany	13 136	3 554	62 422	3.52	0.95	16.73	162.98	44.09	774.47
Japan	17 881	35 177	96 205	3.63	7.15	19.56	140.46	276.33	755.73
United States	18 165	91 811	134 751	1.08	5.48	8.04	57.47	290.45	426.29

Source: WIPO Statistics (database).

Figure 4.3. PCT applications for selected applicant country of residence



Source: WIPO Statistics (database).

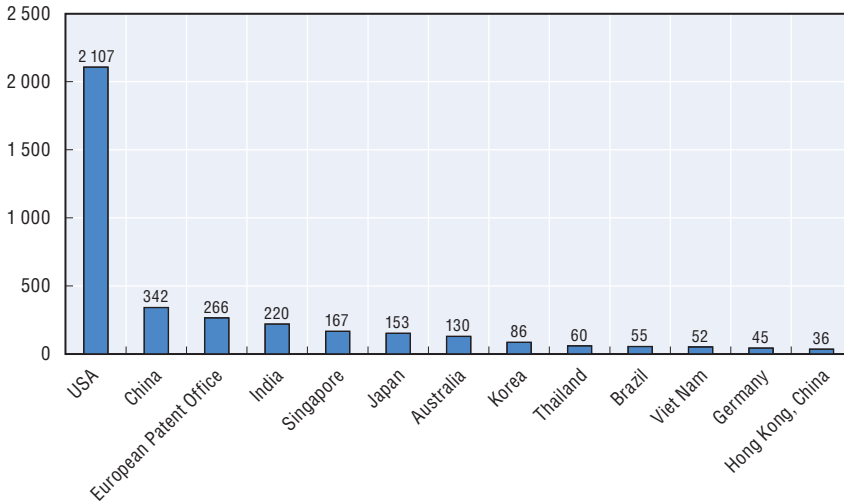
Considering total filings abroad, both direct filings to foreign patent offices and foreign filings via the PCT route, the United States was the top destination for Malaysian applicants with 2 107 filings in the period 2007-12, followed by China (342), the European Patent Office (266) and India (220). Figure 4.4 shows the international offices that received the highest number of patent applications from Malaysia between 2007 and 2012.

The most frequently granted patents to residents by the Malaysian Intellectual Property Office (MyIPO) in 2012 were those within medical technology, chemical engineering and computer technology (Figure 4.5). This reflects the importance of patents for those sectors (ESA-USPTO, 2012).

4.2. Utility models

Utility models, which protect minor inventions (e.g. improvements to known products and processes) and have a lower inventive threshold than patents, are a relevant tool for small and medium-sized enterprises (SMEs) and businesses in emerging countries because they provide to these companies potentially useful stepping stones toward seeking and obtaining full patents later (Nikomborirak and Paibunkott-aree, 2013). However, Malaysian residents barely use the utility model system: in 2013, only 70 resident applications were filed, compared to more than 1 000 patent applications, and the average number of utility model applications each year in the period 2003-12 was only 37. Usage of utility models in Malaysia differs from their use in both Thailand and the Philippines. In Thailand, residents filed roughly the same number of

Figure 4.4. **Top destinations of patent applications by applicants from Malaysia, 2007-12**



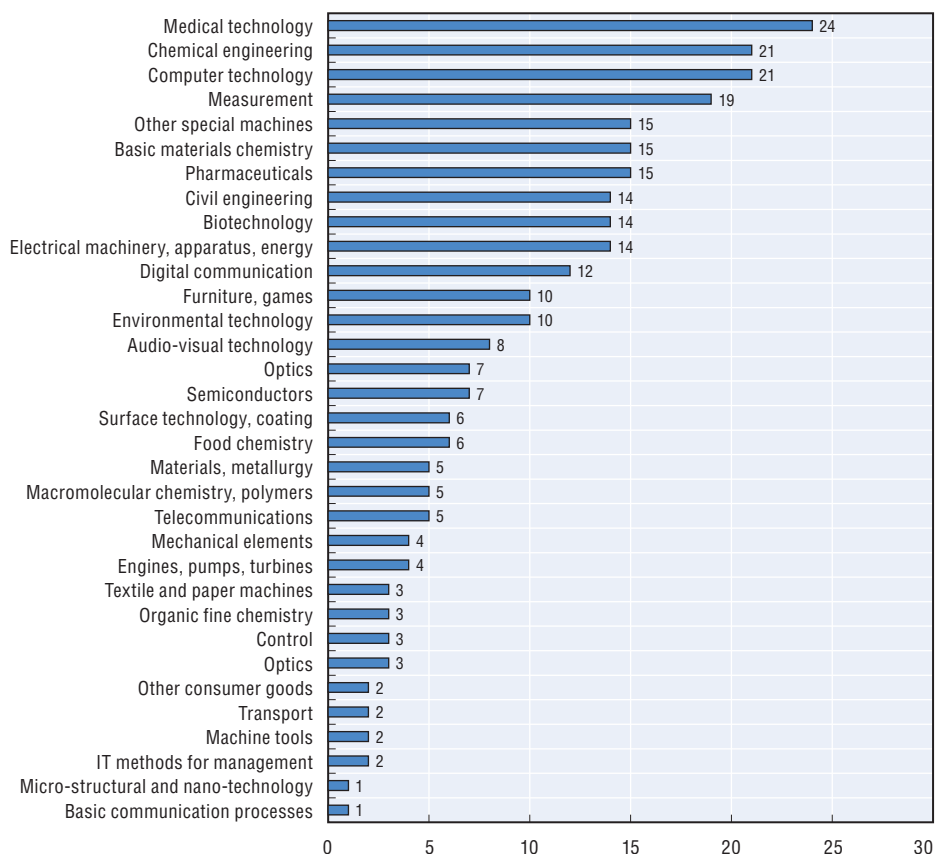
Note: Count by filing office and applicant origin. Total number of applications received, including direct filings and PCT national phase entries. Only countries with more than 50 total filings in the period displayed in the graph.

Source: WIPO Statistics (database) (table last updated June 2014).

patents and utility models in 2013 (approximately 1 500). In the Philippines, residents filed more than 700 utility models but only around 200 patents in the same year (Table 4.3).

The reason for this lack of use in Malaysia might be that the design of the utility model system is too similar to the patent system in terms of application procedures, eligible subject matter and cost, as well as a lack of awareness among businesses, notably SMEs that stand to gain the most from utility models. For researchers, the low value given to utility models in performance evaluation exercises is a further constraint. It is worth reviewing the application procedures and making utility model applications less cumbersome to applicants for minor inventions. In Malaysia's case, utility models undergo substantive examination, which is a source of costs (Table 3.4). In Thailand, utility models have the highest application numbers in ASEAN countries (Figure 4.6). The proportion of utility model applications relative to patents is much higher, as is to be expected for an emerging economy in which many firms lack the research and development capacities needed to successfully develop patentable applications. Steps taken to increase the use of utility models in Thailand include collaborative awareness campaigns between Thailand's Department of Intellectual Property and its Department of Vocational Education (Nikomborirak and Paibunkott-aree, 2013: 15). The application costs is also very low (USD 20 [250 Thai bhat]). The way forward in Malaysia is not necessarily to

Figure 4.5. **Patents granted to residents in Malaysia by technology, as a percentage of total patent grants**



Note: 310 patents were granted to residents in Malaysia in 2012. For 27 granted patents, no classification was attributed.

Source: WIPO Statistics (database).

simplify utility model application procedures excessively; Malaysia must find a good balance between facilitating easier access to utility model protection without encouraging a proliferation of low value IP titles.

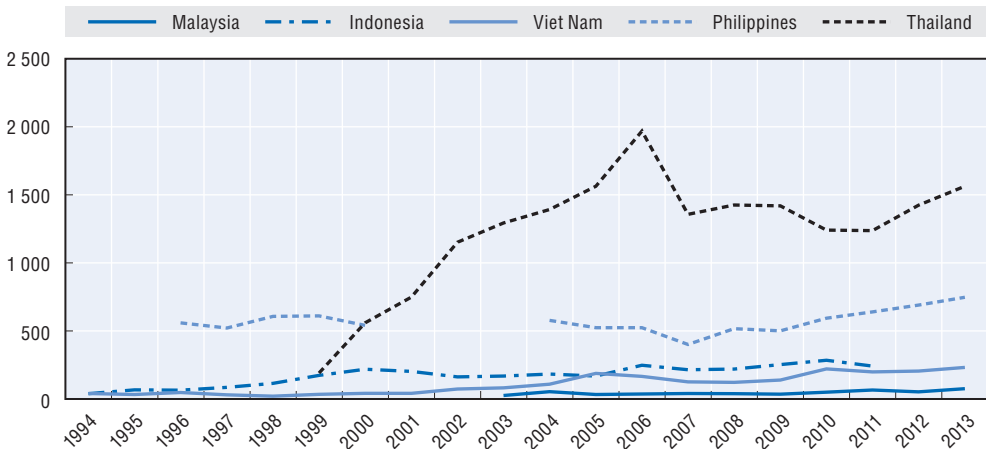
4.3. Trademarks

In comparison to patent and utility model applications, the number of trademark applications from residents and non-residents is more balanced in that non-resident applications are matched by substantial national applications. Compared with the other ASEAN 5 countries (Indonesia, Philippines, Thailand and Viet Nam), the number of resident and non-resident trademark applications in Malaysia are closer to those of the Philippines and Thailand, whereas in

Table 4.3. **Ratios of resident patent applications to resident utility model applications for selected countries, 2013**

Countries	Resident patent applications	Resident utility model applications	Ratio of resident patent application to resident utility model application
Philippines	220	743	3.38
Thailand	1 572	1 561	0.99
Viet Nam	443	226	0.51
Indonesia	663	233	0.35
Germany	47 353	11 644	0.25
Malaysia	1 199	70	0.06
Japan	271 731	5 965	0.02
France	14 690	200	0.01

Source: WIPO Statistics (database).

Figure 4.6. **Resident utility model applications for selected ASEAN IP offices**

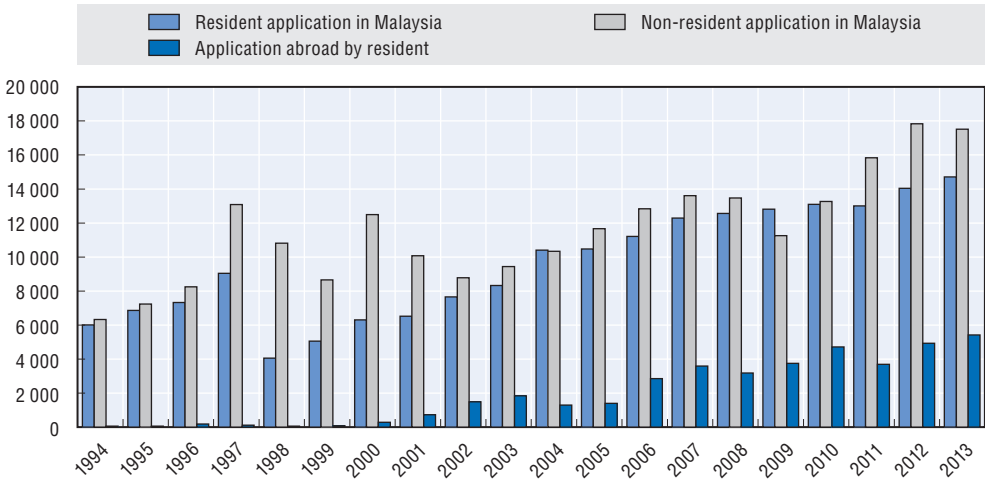
Source: WIPO Statistics (database).

Indonesia resident filings are much more numerous than non-resident filings (Table 4.1).

Resident trademark applications in Malaysia experienced high growth after the Asian crisis in 1997. Between the years 1998 to 2004, filing numbers increased from 4 063 to 10 406 (Figure 4.7). They have grown more modestly since 2005. Some neighbouring ASEAN countries have experienced even higher growth rates, including Thailand and Indonesia (Figure 4.8).

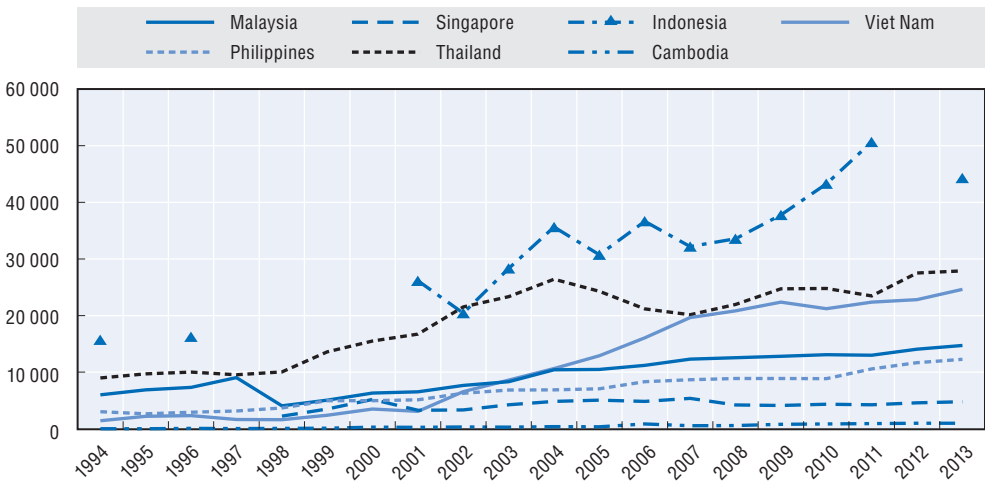
Table 4.4 lists the top ten trademark classes in terms of registrations in 2013. The proportion of resident registered trademarks is higher in services, food and clothing, while non-residents registered more trademarks related to electronics and electrical machinery, pharmaceuticals and chemicals.

Figure 4.7. **Trademark applications for Malaysia**



Source: WIPO Statistics (database).

Figure 4.8. **Resident trademark applications for selected IP offices**



Source: WIPO Statistics (database).

Table 4.4. **Top ten trademark registrations by class in 2013**

Rank	Type	Registrations (and % of total)	Local applicants	% class
1	Machinery (Class 9) Incl. scientific, photographic, optical instruments; apparatus for recording sound or images; data processing equipment and computers	2 237 (8.3%)	582	26.0
2	Business services (Class 35) Advertising; business management; business administration; office functions	1 939 (7.2%)	994	51.3
3	Pharmaceuticals (Class 5) Incl. pharmaceutical and veterinary preparations; sanitary preparations for medical purposes; disinfectants	1 577 (5.8%)	381	24.2
4	Foodstuffs of plant origin prepared for consumption or conservation as well as auxiliaries intended for the improvement of the flavour of food. (Class 30) Incl. coffee, tea, bread, pastry and confectionery, ices; honey, treacle; yeast, baking-powder; salt, mustard; vinegar, sauces (condiments); spices; ice	1 468 (5.4%)	762	51.9
5	Chemicals (Class 3) Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; soaps; perfumery, essential oils, cosmetics, hair lotions; dentifrices	1 464 (5.4%)	393	26.8
6	Clothing (Class 25) Incl. clothing, footwear, headgear	1 421 (5.3%)	584	41.1
7	Stationary (Class 16) Paper, cardboard and goods made from these materials, not included in other classes; printed matter; bookbinding material; photographs; stationery; adhesives for stationery or household purposes; artists' materials; paint brushes; typewriters and office requisites (except furniture); instructional and teaching material (except apparatus); plastic materials for packaging (not included in other classes); printers' type; printing blocks	1 182 (4.4%)	652	55.2
8	Education and entertainment services (Class 41) Incl. education; providing of training; entertainment; sporting and cultural activities	1 134 (4.2%)	522	46.0
9	Meat and fish products (Class 29) Meat, fish, poultry and game; meat extracts; preserved, frozen, dried and cooked fruits and vegetables; jellies, jams, compotes; eggs, milk and milk products; edible oils and fats	948 (3.5%)	406	42.8
10	Hotel and Catering Services (Class 43) Services for providing food and drink; temporary accommodation	927 (3.4%)	519	56.0

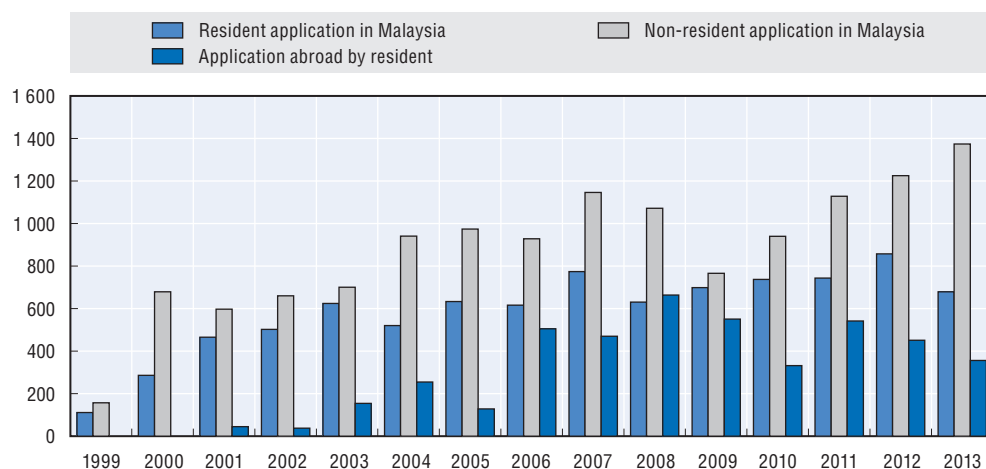
Note: Class numbers in parentheses correspond to the international classification of goods and services under the Nice Agreement. There are 45 classes in total. The title above the parentheses is based on the class description, which can be accessed in full detail at WIPO *International Classification for Industrial Design* (database).

Source: WIPO Statistics (database).

4.4. Industrial designs

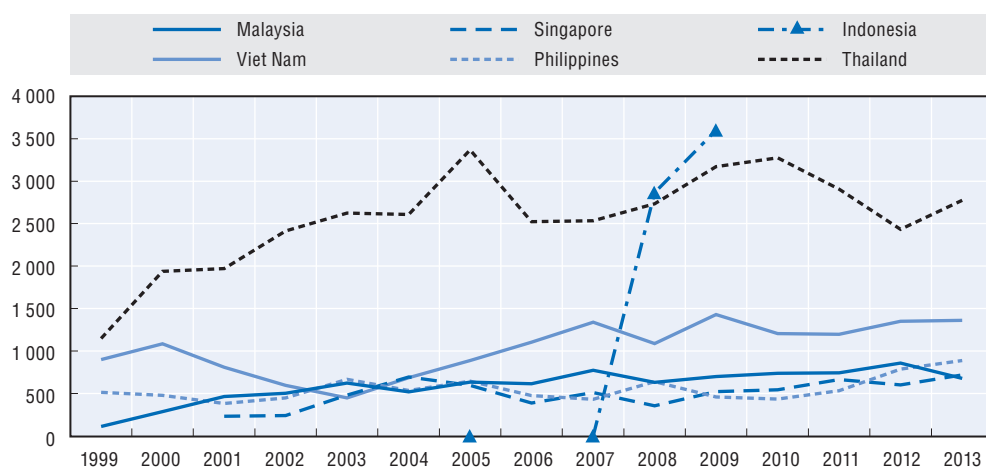
Industrial design applications have increased since the early 2000s (Figure 4.9), and are comparable to the number of resident applications received by several other ASEAN IP offices (Figure 4.10). Table 4.5 presents the distribution of registrations in the top ten industrial design classes in 2013.

Figure 4.9. **Industrial design applications for Malaysia**



Source: WIPO Statistics (database).

Figure 4.10. **Resident industrial design applications in selected IP offices**



Source: WIPO Statistics (database).

Table 4.5. **Top ten industrial design class registrations in 2013**

No.	Details	Registrations (% of all registrations)	Locals	% class registrations
1	Recording, communication or information retrieval equipment (Class 14)	306 (15.3%)	34	11.1
2	Packages and containers for the transport or handling of goods (Class 9)	253 (12.6%)	58	22.9
3	Fluid distribution equipment, sanitary, heating, ventilation and air-conditioning equipment, solid fuel (Class 23)	199 (9.9%)	73	36.7
4	Means of transport or hoisting (Class 12)	174 (8.7%)	20	11.5
5	Furniture and furnishing items (Class 6)	119 (5.9%)	85	71.4
6	Household goods (Class 7)	106 (5.3%)	34	32.1
7	Clothing (Class 2)	104 (5.2%)	93	89
8	Clocks and watches and other measuring instruments (Class 10)	83 (4.1%)	18	21.7
9	Building units and construction elements (Class 25)	80 (4.0%)	73	91.3
10	Lighting apparatus (Class 26)	76 (3.8%)	17	22.4

Source: WIPO Statistics (database).

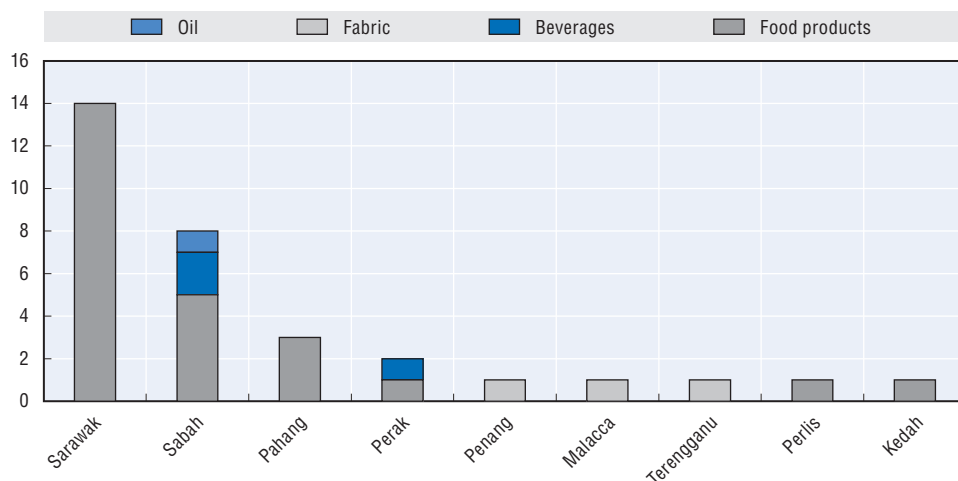
4.5. Geographical indications

From its introduction (in 2003) until July 2014, MyIPO received 74 applications for geographical indications (GIs). More than half of these requests were received in the period 2011-14, illustrating the fairly recent uptake of GIs in Malaysia. To date, 37 GIs have been granted, with 32 being for Malaysian products. Registered foreign GIs are Champagne, Pisco, Scotch whisky, Cognac and Parmigiano Reggiano. Registered local GIs are for plants, food products (fruit, pepper, tea, coffee, rice, cakes, ginger, etc.) and textiles. Sarawak state has the highest number of registered GIs in Malaysia with 14 products granted, followed by Sabah with 8 products (Figure 4.11). Sarawak's success is the result of a concerted effort by the Sarawak State Department to register GIs (see discussion in Chapter 5). Moreover, in 2013 the Ministry of Domestic Trade, Co-operatives and Consumerism introduced the Geographical Indications Logo to help consumers better identify registered products (MyIPO, 2013).

4.6. Copyright

Since copyright protection does not require registration, it is difficult to formally assess its importance. Often the size of the copyright or creative industry is used as a proxy. Using this method, a recent WIPO study estimates that in 2008, copyright industries accounted for 5.7% of Malaysia's GDP and 7.5% of its employment, above the world average of approximately 5.0% for both indicators (WIPO 2014). Table 4.7 shows the number of applicants for a voluntary copyright notification in 2013, following the introduction of the system in 2012.

Figure 4.11. Geographical indications, per Malaysian state and type



Source: Data from MyIPO, as of July 2014. Malaysian states not included in this figure have no GIs.

Table 4.6. Geographical indications in Malaysia

No.	Geographical Indication	19	Langkawi Cheese
1	Sarawak Pepper	20	Sarawak Litsea
2	Sabah Tea	21	Perlis Harumanis Mango
3	Borneo Virgin Coconut Oil	22	Champagne
4	Tenom Coffee	23	Belacan Bintulu
5	Sabah Seaweed	24	Sesar Unjur Sarawak
6	Bario Rice	25	Umai Sarawak
7	Buah Limau Bali Sungai Gedung	26	Tenun Pahang Diraja
8	Pisco	27	Biskut Dan San Sungai Lembing
9	Scotch Whisky	28	Kacang Goreng Sempalit
10	Sarawak Beras Biris	29	Gaharu Gopeng
11	Sarawak Beras Bajong	30	Terengganu Songket
12	Kuih Lidah Kampung Berundong Papar	31	Malacca Songket
13	Tambunan Ginger	32	Isau Sarawak
14	Sarawak Sour Eggplant	33	Durian Nyekak Sarawak
15	Sarawak Layered Cake	34	Ikan Terubok Mulut Besar Sarawak
16	Sarawak Dabai	35	Bentong Ginger
17	Cognac	36	Keningau Cinnamon
18	Parmigiano Reggiano	37	Tuhau Tambunan

Note: Foreign geographical indications are indicated in bold.

Source: MyIPO (2014a).

Table 4.7. **Applications for a copyright notification in 2013**

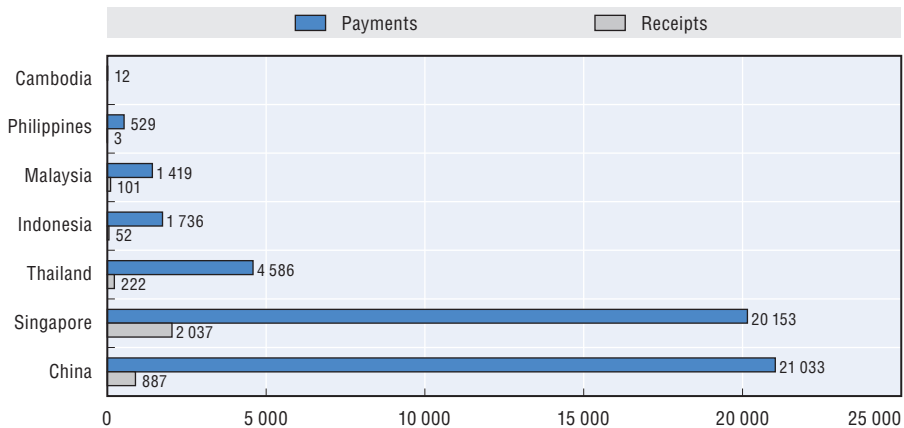
Type of Work	Notifications
Literary	779
Artistic	301
Sound recordings	56
Musical	33
Film	26
Derivative	21
Total	1 216

Source: MyIPO (2014b).

4.7. Royalties and licensing fees

As an emerging economy, Malaysia is a net importer of intellectual property, as is the case of other emerging countries in the region (Figures 4.12). In 2013, the country paid approximately USD 1.4 billion in royalties and licensing fees. Since the mid-2000s, royalties and licensing payments have increased by more than 50%, suggesting that Malaysia is tapping more intensively into the international knowledge base. During the same period – from 1995 to 2013 – receipts from royalties and licensing fees also increased, from USD 26.2 million to USD 101 million.

Figure 4.12. **Royalties and licensing fee receipts for selected countries, 2013**
Current USD (millions)



Note: Royalties and license fees are payments and receipts between residents and non-residents for the use of intangible, non-produced, non-financial assets and proprietary rights such as patents, copyrights, trademarks, industrial processes and franchises; and for the use of produced originals or prototypes.

Source: World Bank (2015), *World Development Indicators*.

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