

Case Study: Allens Arthur Robinson – Pro bono assistance to Sa Pa Indigenous Medicinal Plants Association in Vietnam

Background

Allens Arthur Robinson (AAR) is providing pro bono assistance to an initiative in the northern mountainous region of Sa Pa in Vietnam. Although this is one of the poorest regions in Vietnam, it is rich in biodiversity and an acknowledged national centre of expertise in the use of traditional medicinal plants.

The initiative involves the commercial application of traditional knowledge held by the indigenous people of this region relating to the medicinal use of its indigenous plants.



Two farmers discuss the medicinal properties of plants in Ta Phin commune, Sa Pa.

Through the Medicinal Plants Innovation Project, funded by the New Zealand Government's international aid and development agency, NZAID, and in collaboration with Forest Herbs Research Ltd, the indigenous people have formed a Vietnamese collective organisation called Sa Pa Indigenous Medicinal Plants Association (SIMPA) and established a Vietnamese company called Sa Pa Essentials to act as its commercial arm.

SIMPA has also sought assistance in the commercialisation and protection of its traditional knowledge. The initiative targets traditional medicinal plant species and products with a high potential value in national and international markets, and the sustainable harvesting and commercial cultivation of these targeted species. This initiative has recently received a 2007 SEED (Supporting Entrepreneurs for Environment and Development) Award.

Thomas Osborn, a representative of SIMPA, approached Allens Arthur Robinson's Vietnamese office in Hanoi at the beginning of 2007 to inquire if Allens Arthur Robinson would be prepared to provide pro bono assistance in drafting documents to transfer to SIMPA the ownership of two patent applications relating to collaborative work undertaken by Forest Herbs Research Ltd.

Allens Arthur Robinson agreed to a pro bono undertaking of this work and subsequently offered its pro bono support to cover a wider range of services.

Business contribution

The pro bono assistance provided by AAR included commercial advice and obtaining of registered intellectual property rights (in the form of patent protection) for new bioactive plant extracts and compounds discovered from collaborative research into the Sa Pa region's indigenous plants.

AAR's pro bono assistance to SIMPA involved waiving its professional fees for the services provided; i.e. general commercial advice and specialised patent work including the drafting and preparation of patent specifications, advice on patent filing strategies, prosecution of patent applications during the 'international phase', filing and prosecution of national and 'national phase' patent applications in Australia and New Zealand, correspondence with overseas associates, preparation and registration of assignments.

Innovation

Innovations in establishing a pro bono arrangement for SIMPA included:

- Establishing a pro bono team to assist SIMPA, including members based in a number of our offices in different countries including Hanoi, Sydney and Melbourne. The establishment of the arrangement with SIMPA was assisted by the facilitation of AAR's full time pro bono coordinator, who liaised with SIMPA and the various team members.
- Provision of pro bono assistance in the commercial area of patents. This is an area not typically supported by pro bono assistance because of the relatively high costs associated with seeking patent protection, which largely arise from having to file separate applications and appoint separate patent agents in each country where patent protection is sought. Decisions made as to the extent of the patent filing programmes also relate to the expected commercial success of the products falling under the scope of the patent, and therefore involves a risk assessment based on cost/benefit analysis that does not lend itself to provide the justification typically required to undertake pro bono work.

Benefit to community and the business

Community benefits:

- Enabling a poorer sector of Vietnamese society to establish an initiative to provide for a commercially profitable venture, create jobs and employment for the local indigenous population, increase standard of living, sustainable harvesting and low impact to environment; and
- Providing to the public an affordable product with beneficial medicinal properties.

AAR benefits:

- Allowing AAR employees to use core skills to contribute to a worthwhile venture;
- Assisting AAR to develop itself as an employer of choice;
- Allowing inter-office internal networks to be established; and
- The fact that the project accords with AAR's commitment to establish itself as a role model and leader in corporate ethics and as a socially responsible member of the business community.

Overcoming obstacles

The obstacles encountered during the SIMPA project include the following:

- The need to establish an inter-office team;
- The requirement for specialist patent attorney technical support from Australian offices that were remote from the client's location in Vietnam;
- The increasing amount of time required for the range of new matters that arose;
- The extension of the pro bono arrangement during the course of the undertaking; and
- The limited ability to cover costs outside New Zealand and Australian jurisdictions.

The way forward

Allens Arthur Robinson is committed to supporting SIMPA in its future research covering the technology that is the subject matter of the present patent applications and will continue to provide assistance through to the grant of present New Zealand and Australian patent applications.

In addition, AAR will assist with establishing intellectual property rights over the future work directed to isolating bioactive compounds from the appropriate indigenous plants, and in particular the drafting of patent specifications covering any relevant discoveries, and the providing of general commercial advice regarding intellectual property.