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**SECRETARY FOR FINANCIAL
SERVICES AND THE TREASURY**

Central Government Offices,
Ice House Street,
Hong Kong

BY FAX & BY POST

13 June 2007

Mr Steven Birt
President
The Hong Kong Institute of Trade Mark Practitioners
Suite D, 16th Floor
On Hing Building
1 On Hing Terrace
Central
Hong Kong

Dear Mr Birt,

Proposal for Amendment to Section 22 of the Companies Ordinance

Thank you for your letter of 16 May 2007 enclosing detailed information proposing amendments to section 22 of the Companies Ordinance (Cap.32) ("CO") with a view to tackling the problems of "shadow companies" registered in Hong Kong.

We share your concern about the problems of "shadow companies". In fact, as you are aware, it is our intention to introduce relevant changes to our company name registration system in the context of the rewrite of the Companies Ordinance exercise, which started in mid-2006. We are now studying various options to improve our company name regime and I assure you that your proposal to empower the Registrar of Companies to follow up with a court order directing the offending company to change its name is being seriously considered. We plan to put forward options for consideration by the relevant Advisory Group on the Rewrite of the Companies Ordinance and the

Standing Committee on Company Law Reform within 2007 and conduct a public consultation on the issue in early 2008.

With regard to your proposal to introduce an amendment bill into LegCo to deal with the issue in the interim, pending the implementation of the reforms mentioned above in the context of the rewrite of the Companies Ordinance, the Registrar of Companies has already explained to you in his letter dated 26 October 2006 why this would not be possible. Taking into account the time required for preparing the proposed legislative amendments and consultation with relevant stakeholders, it is not realistic to expect that such an amendment bill could be introduced into LegCo within the current session. Besides, proceeding with the proposed amendment bill would pre-empt the public consultation which the Administration intends to undertake on the issue of company names in early 2008 as mentioned above.

In the meantime, I would stress that the Administration is actively tackling the problem of "shadow companies" within the current statutory framework. First, the Registrar of Companies is using the provisions of section 291 of the Companies Ordinance to strike off such companies in the event that they are not carrying out business or are no longer in operation. In this respect, the Companies Registry has drawn up a list of criteria to enable plaintiff companies and their legal advisers to forward the details of "shadow companies" which are involved in intellectual property infringements to the department for consideration as possible cases for striking-off action.

Secondly, following the success of the International Trademark Association (INTA) Roundtable on 28 March 2007, the Registrar of Companies has formed a Liaison Committee with Intellectual Property Practitioners to consider ways and means of tackling this issue pending legislative reform. The first meeting of the Liaison Committee on 14 May led to a number of useful proposals being made which are either being implemented or will be subject to further consideration. I understand that the Liaison Committee meets regularly and you and other trademark practitioners are most welcome to participate in the ongoing constructive work of the Committee.

Thirdly, the Companies Registry has adopted some administrative measures to address the problems of "shadow companies". In this respect, the Companies Registry's website now gives the details of those companies that

have failed to comply with the Registrar's direction to change their names. Furthermore, the Companies Registry's Company Names Guidelines are being amended to make clear that the misuse of company names is an infringement of a brand-owner's rights.

Yours sincerely,



(Frederick S. Ma)

Secretary for Financial Services and the Treasury

c.c. Clerk to the LegCo Panel on Commerce and Industry
The Honourable Margaret Ng
Secretary for Commerce, Industry and Technology
Permanent Secretary for Financial Services and the Treasury
(Financial Services)
Registrar of Companies