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**Paper for the House Committee Meeting
of the Legislative Council
on 11 February 2000**

**Legal Service Division Report on
Intellectual Property (Miscellaneous Amendments) Bill 2000**

Objects of the Bill

This Bill makes miscellaneous amendments to the Copyright Ordinance (Cap. 528), the Prevention of Copyright Piracy Ordinance (Cap. 544) and the Patents Ordinance (Cap. 514). The main purposes of this Bill are to create an offence of unauthorized possession of video recording equipment in a place of public entertainment and to clarify the law to facilitate prosecution of corporate copyright infringement.

LegCo Brief Reference

2. TIB 09/46/12 issued by the Trade and Industry Bureau in January 2000.

Date of First Reading

3. 26 January 2000.

Comments

4. This Bill consists of 30 Clauses. Clauses 2 - 12 amend various sections of the Copyright Ordinance by repealing the expression "for the purpose of trade or business" wherever it appears in those sections and substituting the expression "for the purpose of, in the course of, or in connection with, any trade or business". These amendments will make it clear that it will constitute an infringement act to use infringing articles in the course of business activities, regardless of whether the business is in the dealing of the infringing articles themselves. Thus, for example, a firm engaging in normal business activities but using pirated computer software will be caught by these amendments.

5. Clauses 13 - 29 amend the Prevention of Copyright Piracy Ordinance (Cap. 544). Clause 25 proposes to add a new Part III to the Ordinance and creates a

new offence. Any person who, without lawful authority, has in his possession in a place of public entertainment any video recording equipment commits an offence. He is liable to a fine at level 2 (\$5,000) on a first conviction, and on a subsequent conviction, to a fine at level 5 (\$50,000) and to imprisonment for 3 months. Clause 14 adds definitions such as "building", "manager", "performance", "place of public entertainment" and "video recording equipment" used in the new Part III to section 2 of the Ordinance. Other Clauses are technical amendments reorganizing the Ordinance into different Parts.

6. Clause 30 amends section 116 of the Patents Ordinance (Cap. 514) to correct an inconsistency between that section and section 122. This is only a minor technical amendment which does not involve any policy change.

Public Consultation

7. The Administration issued a public consultation paper, "Combating Intellectual Property Rights Infringement in the HKSAR: Possible Additional Legal Tools" in March 1999. One of the proposals therein was to ban recording equipment in cinemas and concert venues. The majority of the submissions in response to the consultation supported this proposal. The Administration has also consulted The Hong Kong Theatres Association which welcomed this proposal (see paragraph 23 of the LegCo Brief).

Consultation with the LegCo Panel

8. The Administration has submitted a Paper (CB(1)1435/98-99(05)) to the Panel on Trade and Industry in June 1999. The Panel had met some deputation. Members were generally in support of this proposal but one of the Members doubted whether the option of creating an offence of unauthorized possession of video recording equipment in a cinema was better than making it illegal to record or possessing an unauthorized recording of a film being shown in a cinema (see Minutes of meeting on Panel held on 7 June 1999 vide LC Paper No. CB(1)50/99-00).

Conclusion

9. The Legal Service Division is seeking clarifications from the Administration on some technical points. Members might wish to set up a Bills Committee to scrutinize this Bill in detail, in particular, the effectiveness of the implementation of this Bill.

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