

立法會
Legislative Council

LC Paper No. CB(1)1215/02-03
(These minutes have been seen
by the Administration)

Ref: CB1/SS/3/02/1

**Subcommittee on
Trade Marks Rules and
Trade Marks Ordinance (Cap. 559) (Commencement) Notice 2003**

**Minutes of Meeting
held on Tuesday, 25 February 2003 at 2:30 pm
in Conference Room A of the Legislative Council Building**

Members present : Hon Margaret NG (Chairman)
Hon Kenneth TING Woo-shou, JP
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon HUI Cheung-ching, JP
Hon WONG Yung-kan
Hon Audrey EU Yuet-mee, SC, JP

Members absent : Hon CHAN Kam-lam, JP
Hon SIN Chung-kai

Public officers attending : Commerce, Industry and Technology Bureau

Mr Kenneth MAK
Deputy Secretary for Commerce, Industry and
Technology (Commerce and Industry)

Mr Donald CHEN
Principal Assistant Secretary for Commerce, Industry
and Technology (Commerce and Industry)

Miss Linda TSUI
Assistant Secretary for Commerce, Industry and
Technology (Commerce and Industry)

Intellectual Property Department

Mr Stephen SELBY
Director of Intellectual Property

Mrs Teresa GRANT
Assistant Director of Intellectual Property

Miss Finnie QUEK
Senior Solicitor (Registration), Intellectual Property
Department

Mr Tom TSUI
Project Manager, Intellectual Property Department

Department of Justice

Mr Jeffrey E GUNTER
Senior Assistant Law Draftsman, Department of Justice

Miss POON Hon-ying
Government Counsel, Department of Justice

Clerk in attendance : Ms Connie SZETO
Chief Assistant Secretary (1)4

Staff in attendance : Miss Anita HO
Assistant Legal Adviser 2

Mr S C TSANG
Senior Assistant Secretary (1)7

Action

I Election of Chairman

Mr Kenneth TING, the Member who had the highest precedence in the Council amongst those who were present at the election, presided over the election of Chairman for the Subcommittee. Mr TING invited nominations for the chairmanship of the Subcommittee.

2. Miss Margaret NG was nominated by Mr Kenneth TING and the nomination was seconded by Mr HUI Cheung-ching. Miss NG accepted the

nomination. There being no other nomination, Miss Margaret NG was declared Chairman of the Subcommittee.

II Meeting with the Administration

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| (LC Paper No. CB(1) 953/02-03(01) | -- Members' brief |
| LC Paper No. CB(1) 953/02-03(02) | -- Extracts of minutes of meeting of the LegCo Panel on Commerce and Industry held on 11 November 2002 |
| LC Paper No. CB(1) 953/02-03(03) | -- Extracts of draft minutes of special meeting of the LegCo Panel on Commerce and Industry held on 21 January 2003 |
| LC Paper No. CB(1) 778/02-03 | -- Submission from The Hong Kong Institute of Trade Mark Practitioners dated 20 January 2003 |
| LC Paper No. CB(1) 845/02-03 | -- Administration's response to the submission from The Hong Kong Institute of Trade Mark Practitioners) |

3. The Bills Committee deliberated (Index of proceedings attached at the **Annex**).

4. Members agreed that the Chairman of the Subcommittee would move a resolution at the Council meeting on 12 March 2003 to extend the scrutiny period of the Trade Marks Rules (the Rules) and the Trade Marks Ordinance (Cap. 559) (Commencement) Notice 2003 (Commencement Notice) to 2 April 2003 to allow sufficient time for the scrutiny. The decision would be reported to the House Committee at its meeting scheduled for 28 February 2003.

5. Members also agreed to invite submissions from the following organizations:

- (a) those organizations which the Administration had consulted on the Rules and Commencement Notice; and
- (b) those organizations which had given views to the Bills Committee on Trade Marks Bill in 1999 and 2000.

- Admin 6. The Administration undertook to provide the Subcommittee with an information paper comparing the new Trade Marks Ordinance (Cap. 559) and comparable legislation in the UK.

III Any other business

7. Members agreed to hold the next two meetings on **Monday, 3** and **Friday, 7 March 2003**, both at **8:30 am**. The Subcommittee would meet with deputations at the meeting scheduled for Monday, 3 March 2003.

8. There being no other business, the meeting ended at 3:35 pm.

Council Business Division 1
Legislative Council Secretariat
26 March 2003

**Proceedings of the meeting of the
Subcommittee on Trade Marks Rules and
Trade Marks Ordinance (Cap. 559) (Commencement) Notice 2003
on Tuesday, 25 February 2003 at 2:30 pm
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000 - 000052	Mr Kenneth TING	Election of Chairman	
000052 - 000420	Chairman Mrs Selina CHOW Ms Audrey EU Clerk	Opening remarks; Legislative timetable and extension of scrutiny period	
000420 - 001240	Chairman Clerk	Deputations to be invited for submissions; Dates of next two meetings	
001240 - 002900	Administration	Powerpoint presentation by the Administration on the registration system under the new Trade Marks Ordinance (Cap. 559) (the Ordinance)	
002900 - 003933	Mrs Selina CHOW Chairman Administration	Clarification on industry's major concerns relating to the Trade Marks Rules (the Rules): (a) Time limits on proceedings with the Registrar of Trade Marks (the Registrar) to be taken by a trade mark applicant if his application failed to meet requirements for registration (under Rule 13); (b) Time limits for filing a notice of opposition against a mark and a counter-statement to the notice after the mark had been advertised (under Rules 16 and 17); and (c) Documents relating to a trade mark to be released for public inspection (under Rule 70).	

Time marker	Speaker	Subject(s)	Action required
003933 - 004342	Mrs Selina CHOW	<p>Concern that the Administration should provide flexibility on the time limits on proceedings with the Registrar to facilitate compliance of trade mark applicants</p> <p>The Administration considered that the proposed time limits under the Rules were reasonable and had struck a balance between the interests of trade mark applicants, trade mark agents and other stakeholders in the business community.</p>	
004342 - 004914	Mr HUI Cheung-ching Chairman Administration	<p>Confirmation that the Administration would issue one certificate for a single application for registration of a mark in multiple classes of goods and services</p> <p>There was no need for trade mark applicants to appoint lawyers to act on their behalf on proceedings with the Registrar, such as attending hearings on disputable cases.</p>	
004914 - 005108	Mr HUI Cheung-ching Administration	<p>Comparison on fees required for renewal of trade mark registration under the existing Trade Marks Rules and the new Rules</p> <p>On-line search of information on registered trade marks would be free of charge.</p>	
005108 - 005442	Ms Audrey EU Chairman Administration	<p>Enquiry on the wider range of signs that could be registered as trade marks</p> <p>Sounds, smells and 3-dimensional items etc. which could be represented in writing could be registered as trade marks under the Ordinance. There would be better protection for well-known trade marks.</p>	

Time marker	Speaker	Subject(s)	Action required
005442 - 005613	Ms Audrey EU Chairman	Clarification that sections 12(4), 21(2), 63 and Schedule 2 of the Ordinance dealt with well-known trade marks	
005613 - 010149	Mr Kenneth TING Chairman Administration	Concern on the differences between the Ordinance and relevant legislation in the United Kingdom (UK) The Administration undertook to provide an information paper comparing the Ordinance and comparable legislation in the UK.	Admin

Note: The audio records of the above proceedings are kept at the Legislative Council Library.

Council Business Division 1
Legislative Council Secretariat
26 March 2003