

立法會
Legislative Council

LC Paper No. CB(1)1217/02-03
(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 Friday, 7 March 2003 at 8:30 am
in the Chamber 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 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 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

Department of Justice

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

Mr Dominic LAI Kai-sang
Senior Government Counsel, Department of Justice

Miss Rayne CHAI Chih-hui
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 KAU Kin-wah
Assistant Legal Adviser 6

Mr S C TSANG
Senior Assistant Secretary (1)7

Action

I Meeting with the Administration

(LC Paper No. CB(1) 1080/02-03(01) -- Information paper provided by the Administration on “A summary of legal advice from the Department of Justice on Rule 95 of the Trade Marks Rules and the legal effect of its deletion”

- LC Paper No. CB(1) 1080/02-03(02) -- Information paper provided by the Administration on “Time limits for trade mark registration in other jurisdictions”
- LC Paper No. CB(1) 1080/02-03(03) -- Information paper provided by the Administration on “Time limits for application for registration and for opposition proceedings” raised in submissions from deputations at the meeting on 3 March 2003
- LC Paper No. CB(1) 1080/02-03(04) -- Letter dated 3 March 2003 from Legal Service Division to the Administration
- LC Paper No. CB(1) 1080/02-03(05) -- Administration’s response dated 6 March 2003 to Legal Service Division’s letter)

The Subcommittee deliberated (Index of proceedings attached at the **Annex**)

- Admin 2. The Administration undertook to take follow-up actions as below:
- (a) To revise the Rules to incorporate the proposals summarized in the Administration's paper (LC Paper No. CB(1) 1080/02-03(03)) in consultation with the practitioners.
 - (b) To provide the draft amended resolution for members' consideration at the next Subcommittee meeting.

II Any other business

3. Members agreed to hold the next meeting on **Friday, 14 March 2003 at 10:45 am**. Members also agreed to invite views from deputations, which had made representation on the Trade Marks Rules at the meeting held on 3 March 2003, on the Administration’s draft amendments to the Rules.

4. There being no other business, the meeting ended at 9:30 am.

**Proceedings of the meeting of the
Subcommittee on Trade Marks Rules and
Trade Marks Ordinance (Cap. 559) (Commencement) Notice 2003
on Friday, 7 March 2003 at 8:30 am
in the Chamber of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000 - 000247	Chairman	Opening remarks	
000247 - 001612	Administration	<p>Briefing by the Administration on the following issues:</p> <p>(a) Legal advice on Rule 95 of the Trade Marks Rules (the Rules) and the legal effect of deleting this rule (LC Paper No. CB(1) 1080/02-03(01));</p> <p>(b) Time limits for trade mark registration adopted in overseas jurisdictions (LC Paper No. CB(1) 1080/02-03(02)); and</p> <p>(c) Results of discussion with trade mark practitioners on time limits for application for registration and for opposition proceedings (LC Paper No. CB(1) 1080/02-03(03))</p>	
001612 - 001834	Ms Audrey EU Chairman Administration	<p>Enquiry on amendments to be made to the Rules to incorporate the proposals summarized in LC Paper No. CB(1) 1080/02-03(03)</p> <p>The Administration would revise Rules 13, 14, 16 and 17 and make consequential amendments to Rules 47, 95, 121 and Schedule to the Rules. A draft resolution was under preparation and would be submitted to the Subcommittee for consideration.</p>	
001834 - 002112	Ms Audrey EU Chairman Administration	Confirmation that a trade mark applicant would be allowed to make multiple submissions to the Registrar of Trade	

Time marker	Speaker	Subject(s)	Action required
		Marks (the Registrar) within the time limits as specified under the Rules	
002112 - 002253	Mrs Selina CHOW Ms Audrey EU Chairman Administration	<p>Clarification that the proposed extension for further periods of three months under Rules 13 and 14 (LC Paper No. CB(1) 1080/02-03(03) would allow sufficient time for a trade mark applicant to collect evidence and respond to the further opinion given by the Registrar</p> <p>There would be no restriction on the number of applications for extension provided that they were made on the grounds specified under Rule 13. Each further extension granted by the Registrar would last for three months.</p>	
002253 - 002656	Mrs Selina CHOW Chairman Administration	<p>Concern that the proposed grounds for extension of time limits for trade mark registration were too strict</p> <p>The Administration confirmed that the proposed grounds would cover the circumstances which required extension of time limits. These grounds had been made based on the feedbacks from trade mark practitioners.</p>	
002656 - 002819	Mr HUI Cheung-ching Administration	Confirmation that the proposed extension of time limits had already taken into account the difficulties encountered by overseas applicants for trade mark registration	
002819 - 003629	Ms Audrey EU Chairman Administration	<p>Enquiry on whether a trade mark applicant had to provide evidence to substantiate his application for further extension of time limits for trade mark registration.</p> <p>The Administration had no intention to formalize the application procedure involved but would consider applications</p>	

Time marker	Speaker	Subject(s)	Action required
		for extension of time limits on a case-by-case basis. Members stressed that applicants should not be required to provide information which might jeopardize their interest in proceedings in the registration of trade marks in order to get extension in time limits.	
003629 - 003638	Chairman Administration	Suggestion to revise the Rules to incorporate the proposals summarized in LC Paper No. CB(1) 1080/02-03(03) in consultation with the practitioners; and to provide the draft amended resolution for members' consideration at the next Subcommittee meeting	Admin
003638 - 004330	Chairman Mrs Selina CHOW	Invitation for views from deputations on the Administration's draft amendments to the Rules	
004330 - 004336	Chairman ALA2	Drafting issues relating to Rules 37, 41 & 50 (LC Paper Nos. CB(1) 1080/02-03(04) & (05))	
004336 - 004440	Chairman	Date of next meeting	

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