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Secretary for Commerce, Industry and Technology  
(Attention: Mr. Donald CHEN,  
Principal Assistant Secretary  
(Commerce and Industry))  
Commerce, Industry and Technology Bureau  
Level 29 One Pacific Place  
88 Queensway  
Hong Kong

3 March 2003

**BY FAX**

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Dear Mr. Chen,

**Trade Marks Rules (L.N. 30 of 2003)**

On scrutinizing the Rules, I would like to seek your clarification on Rules 37(4), 41(3) and 50(6) wherein it is stated that "if the owner does not file a counter-statement within the period specified, he shall not be permitted to take part in the proceedings". The wordings differ from Rule 17 wherein it is stated that "if the applicant does not file a counter-statement within the period specified, he shall be deemed to have withdrawn his application". Why is there a difference with Rule 17? The wordings in Rules 37(4), 41(3) and 50(6) seem to suggest that even if the owner of a trade mark wants to attend the proceedings to defend his registered trade mark orally, he is not allowed to take part in the proceedings because he has not filed a counter-statement within the period specified.

Article 10 of the Hong Kong Bill of Rights provides that "All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing before a competent, independent and impartial tribunal established by law". Could you please re-consider the wordings in Rules 37(4), 41(3) and 50(6) in view of Article 10 of the Hong Kong Bill of Rights?

Your early reply before the date of next meeting, i.e. before 7 March 2003 is most appreciated.

Yours sincerely,

(Anita HO)  
Assistant Legal Adviser

cc: LA