

立法會
Legislative Council

LC Paper No. LS30/09-10

**Paper for the House Committee Meeting
on 8 January 2010**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 18 December 2009**

Date of tabling in LegCo : 6 January 2010

Amendment to be made by : 3 February 2010 (or 24 February 2010 if extended by resolution)

**PART I UPDATE OF THE LISTS OF PARIS CONVENTION
COUNTRIES AND WTO MEMBERS**

Patents Ordinance (Cap. 514)

Patents Ordinance (Amendment of Schedule 1) Order 2009 (L.N. 252)

Registered Designs Ordinance (Cap. 522)

Registered Designs Ordinance (Amendment of Schedule) Regulation 2009 (L.N. 253)

Trade Marks Ordinance (Cap. 559)

Trade Marks Ordinance (Amendment of Schedule 1) Regulation 2009 (L.N. 254)

Layout-Design (Topography) of Integrated Circuits Ordinance (Cap. 445)

Layout-Design (Topography) of Integrated Circuits (Designation of Qualifying Countries, Territories or Areas) (Amendment) Regulation 2009 (L.N. 255)

Background

Member countries of the Paris Convention for the Protection of Industrial Property (Paris Convention countries) and those of the World Trade Organization (WTO) (not including Paris Convention countries) are listed in:-

- (a) Schedule 1 to the Patents Ordinance (Cap. 514) (PO); and
- (b) Schedule to the Registered Designs Ordinance (Cap. 522) (RDO);

a complete list of Paris Convention countries and that of WTO members are set out in Schedule 1 to the Trade Marks Ordinance (Cap. 559) (TMO) and a list of WTO members only is set out in the Schedule to the Layout-design (Topography) of Integrated Circuits (Designation of Qualifying Countries, Territories or Areas) Regulation (Cap. 445 sub. leg. B) (collectively the Schedules). The Schedules were last updated in February 2006.

2. Provisions are made in PO, RDO and TMO to meet the obligations of the Hong Kong Special Administration Region (HKSAR) under the Paris Convention, which is applied to HKSAR by the Central People's Government (CPG), and under the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) as HKSAR is a WTO member. The provisions have the effect that a person who has filed an application in a Paris Convention Country or WTO member country, territory or area will enjoy a right of priority. TRIPS also requires HKSAR to grant the same level of intellectual property protection for layout-designs (topographies) of integrated circuits to citizens of other WTO member countries, territories or areas as to local citizens. This protection is provided to citizens of such qualifying countries, territories and areas as are designated by the Chief Executive by regulation. The Administration has sought the prior approval of CPG of the list of Paris Convention countries via the Office of the Commissioner of the Ministry of Foreign Affairs in Hong Kong before proposing the amendments.

The Amendments

3. Three countries (i.e. The Republic of Angola, The Kingdom of Thailand, and The Republic of Yemen) have since become members of the Paris Convention and five countries (i.e. The Republic of Cape Verde, The Kingdom of Saudi Arabia, The Kingdom of Tonga, Ukraine and The Socialist Republic of Viet Nam) have since acceded to the WTO Agreement. Serbia and Montenegro being a Paris Convention country, has since become two separate countries, i.e. The Republic of Serbia and Montenegro. The Schedules are accordingly amended to reflect these changes. The opportunity is also taken to revise the English name of The State of Bahrain (now The Kingdom of Bahrain), The Republic of Malta (now Malta), The Kingdom of Nepal (now The Federal Democratic Republic of Nepal), Spain (now The Kingdom of Spain), The Republic of Syprus (Cyprus) (now The Republic of Cyprus) and The Bolivar Republic of Venezuela (now The Bolivarian Republic of Venezuela). Similarly the Chinese name of The Republic of Liberia is revised from “利比里亞” to “利比里亞共和國”.

4. Members of the Panel on Commerce and Industry were informed of the proposed amendments via LC Paper No. CB(1)2785/08-09(01). They noted that the four pieces of subsidiary legislation were technical in nature and would not have any effect on the industry or the public. Members may refer to the LegCo Brief (File Ref: CITB 80/18/2) issued by Commerce and Economic Development Bureau and dated 16 December 2009 for background and further information.

5. All the amendments are made by the Chief Executive either in Council or after consultation with the Executive Council and are to come into operation on 26 February 2010.

PART II PUBLIC HEALTH AND MUNICIPAL SERVICES

Public Health and Municipal Services Ordinance (Cap. 132) Hawker (Permitted Places) Declaration 2009 (L.N. 256)

6. The Declaration is made under section 83B(4) of the Public Health and Municipal Services Ordinance (Cap. 132) by the Commissioner for Transport after consultation with the Director of Food and Environmental Hygiene and the Commissioner of Police. It declares the places specified in the Table, namely, the portion of the foot-bridge in front of the east entrance of the Murray Road Multi-storey Carpark Building, the portion of the southern side of the road space of the unnamed lane connecting Pedder Street and Theatre Lane, and the road space in front of House Nos. 1-7, Theatre Lane, to the extent demarcated by road markings into a pitch or pitches, as hawker permitted places. The Hawker (Permitted Places) Declaration (Cap. 132 sub. leg. AG) is accordingly consequentially amended.

7. The Declaration would allow licences for fixed pitch bootblack hawker to be issued to the identified eight bootblack hawkers operating at the respective places specified in the Table. The licence fees for the bootblack hawkers in question will be waived for 12 months (totaling \$2,590) if the licences are issued on or before 30 June 2010. Members may refer to the LegCo Brief (no reference number indicated) issued by the Food and Health Bureau in December 2009 for background information.

8. The Panel on Food Safety and Environmental Hygiene at its meeting on 14 July 2009 and the Central and Western District Council at its meeting on 10 September 2009 have been briefed on the proposed licensing. Both supported the licensing. Members of the Panel also noted that should the present fixed pitches be rendered unsuitable by land or property redevelopment, the Food and Environmental Hygiene Department would follow the established practice of consulting the relevant departments and the District Council on allowing the affected hawks to carry on business at other vacant pitches suitable for bootblack business.

Concluding observations

9. Save as above stated in paragraph 8, neither the public nor any LegCo Panel has been consulted on the subsidiary legislation reported. No difficulties have been identified in the legal or drafting aspects of the above items of subsidiary legislation.

Prepared by

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