

立法會
Legislative Council

LC Paper No. CB(1)1420/13-14(05)

Ref : CB1/PL/CI

Panel on Commerce and Industry

Meeting on 20 May 2014

**Updated background brief on the
promotion of intellectual property trading in Hong Kong**

Purpose

This paper gives an account on the promotion of intellectual property (IP) trading in Hong Kong. It also summarizes the views and concerns expressed by Members during previous discussion on the subject.

Background

2. Hong Kong is one of the innovative and creative economy leaders in the region. As an established international financial and trading centre, Hong Kong's favourable and secure business environment creates an ideal foundation for the development of intellectual property (IP) trading and has the potential to develop into a regional IP trading hub.

3. Pursuant to the Chief Executive's announcement in the 2013 Policy Address, a Working Group on IP Trading ("the Working Group") was set up in March 2013 to advise on the overall strategies to promote the development of Hong Kong as an IP trading hub, and to identify appropriate policy and other support measures to facilitate IP trading in Hong Kong. The Working Group, led by the Secretary for Commerce and Economic Development, comprises Government representatives, industry stakeholders and experts from different fields.

4. The Working Group has so far held four meetings to explore the specific policy and support measures to drive the development of Hong Kong as a premier IP trading hub in the region. The objectives are to provide more financing and trading channels for enterprises and promote the development of the creative and technology industries. A briefing session was also held to exchange views with stakeholders of the IP industry on the subject. Two sub-groups were formed to look into the more important and specialized subjects of IP valuation, and IP arbitration and mediation respectively. In end 2013, the Working Group endorsed a strategic framework ("the Framework") which covers four strategic areas, namely (i) enhancing the IP protection regime; (ii) supporting IP creation and exploitation; (iii) fostering IP intermediary services and manpower capacity; and (iv) pursuing promotion, education and external collaboration efforts. A summary of the Framework is in **Appendix I**.

5. At the Panel meeting on 17 December 2013, members supported in principle the Administration's proposal for the creation of one supernumerary post of Assistant Director of Intellectual Property in the Intellectual Property Department (IPD) (DL2) for a period of three years with effect from 1 April 2014 to carry out the work relating to the implementation of the "original grant" patent (OGP) system and strengthening the promotion of Hong Kong as an IP trading hub. The relevant staffing proposal was approved by the Establishment Subcommittee on 15 January 2014 and subsequently by the Finance Committee on 21 February 2014.

Deliberations of the Panel

6. The Panel was briefed by the Administration on the development of IP trading on 21 May 2013. Members' views and concerns expressed on the subject were summarized in the ensuing paragraphs.

7. The Panel welcomed the Administration's initiatives to foster the development of IP trading in Hong Kong. Members considered a sound IP protection regime and the development of IP trading could encourage innovation and technology (I&T) development, enhance local research and development (R&D) capability, facilitate technology transfer, and promote commercialization of R&D results and branding development. The consequential increase in the demand for high value-added IP intermediary services would also help create quality jobs in Hong Kong. In this connection, some members advised that the IPD should strengthen communication with the innovation and technology sector and the Innovation and Technology Commission in matters relating to promotion of IP trading in Hong Kong. Members also called on the Administration to leverage on

Hong Kong's advantages as an international financial centre and the gateway to China to develop Hong Kong into a regional IP trading hub, as well as to provide the necessary hardware and software underpinnings in terms of policy measures, funding, human resource development, and public education to promote the sustained development of IP trading so as to complement Hong Kong's efforts to become a regional I&T hub.

8. Members were of the view that the Administration should step up efforts to promote respect for IP rights and heighten the business sectors' awareness of IP trading to encourage IP creation, exploitation, and commercialization. Local enterprises, especially small and medium enterprises, should be given more support to help them to protect and capitalize on their intellectual assets and increase their competitiveness through branding and upgrading.

9. Pointing out that a sound copyright regime could facilitate the development of IP trading, members urged for early legislation to update the copyright regime in the digital environment. Following the conduct of a four-month public consultation exercise on the "Treatment of Parody under the Copyright Regime" from 11 July to 15 November 2013, the Administration had briefed the Panel on 18 March 2014 regarding the proposed directions to take the matter of parody forward. Members called on the Administration to submit the relevant legislative proposals to the Legislative Council expeditiously in the light of the urgency in updating Hong Kong's copyright law.

10. Members also opined that a robust patent system tailor-designed to meet local needs and in line with international standard could facilitate the development of Hong Kong into a regional IP trading as well as I&T hub. In this connection, the Panel supported the strategic directions recommended by the Advisory Committee on Review of the Patent System in Hong Kong which included, among others, introducing an OGP system. Members urged the Administration to take forward the implementation of the OGP system as soon as possible, and to conduct public education to promote OGP awareness. Members were also of the view that the Administration should progressively develop Hong Kong's own substantive examination capability in the long run and build up local expertise in drafting and processing patent applications. The Administration was requested to forge closer cooperation with relevant Mainland authorities, to work for mutual recognition of patents, and to negotiate facilitation of patent applications with the Mainland and other jurisdictions. On human capital development, members urged the Administration to liaise with the education sector and patent industry to offer courses on patent agency services and to step up efforts to attract talents and broaden the career paths for local graduates in science and technology.

Deliberations of the Establishment Subcommittee

11. There was a view that IP trading might drive up IP prices and impede the development of the local creative industries, in particular those involving young entrepreneurs in small business start-ups with little capital. Members urged the Administration to step up promotion of IP knowledge to the youth to help them start their own business in the creative industries. Consideration should also be given to setting up low-fee online trading platforms or providing subsidies to private IP trading platforms to lower the IP trading cost for the local creative industries, as well as helping IP buyers and sellers in resolving legal disputes in IP trading. The Administration advised that a number of online platforms on IP trading established by private companies had acted as intermediaries for facilitating IP trading between IP sellers and buyers. The fees charged by such platforms were usually low and affordable to the start-ups. To promote IP trading, the Hong Kong Trade Development Council had established an IP trading platform in December 2013.

12. Some members also expressed concern about the absence of a facilitating legal and taxation framework in Hong Kong to complement the work on promoting IP trading. They urged the Administration to review the legal and taxation framework to enhance the attractiveness of the sub-licensing regime. The Administration undertook to relay the relevant view to the Working Group.

Written questions raised at the Special Finance Committee Meeting

13. In the examination of the Estimates of Expenditure 2014-2015, some Members raised written questions on the work plan and targets of the Working Group in 2014-2015. The Administration advised that the Working Group would explore specific policies and other support measures under each strategic area of the Framework for driving Hong Kong as a premier IP trading hub in the region in 2014. Meanwhile, action was already underway to introduce measures to promote IP trading in Hong Kong. The relevant measures included, among others, working to develop and implement an OGP system to enhance the IP regime and the review of the copyright regime. Subject to the progress of implementation work and legislation in the future, the Administration aimed at launching the OGP system in 2016-2017 at the earliest.

Motion passed at Council meeting

14. At the Council Meeting on 20 March 2013, a motion on "Promoting Hong Kong's economic restructuring" moved by Hon Martin LIAO and amended by Hon Kenneth LEUNG, Hon Christopher CHEUNG, Hon TANG Ka-piu, Hon SIN Chung-kai, Hon IP Kin-yuen and Hon Charles Peter MOK was passed. The motion urged the Administration to, among others, restructure public finances and properly use budget surplus to increase recurrent expenditure to promote Hong Kong's economic restructuring, so as to alleviate social conflicts. Regarding the innovation and information technology industry, the Administration was urged to implement a series of measures, among which included comprehensively reviewing the existing scientific research assistance policies, formulating support policies to attract overseas or mainland enterprises to co-operate with the local scientific research sector, and allocating additional resources to encourage enterprises to undertake research and development projects, so as to develop Hong Kong into an international IP trading hub, thereby creating more quality employment opportunities in scientific and technological industries.

Latest position

15. The Administration will brief the Panel on 20 May 2014 on the work progress of the Working Group as well as the way forward for promoting Hong Kong as an IP trading hub.

Relevant papers

16. A list of relevant papers is in **Appendix II**.

Council Business Division 1
Legislative Council Secretariat
16 May 2014

Strategic Framework

Vision

Position and promote Hong Kong as the premiere IP trading hub in Asia.

Mission

Leverage and further Hong Kong's advantages in financial, legal and physical infrastructure, IP regime, professional services and specific role as "gateway to China", in attracting international IP trading and management activities to take place in Hong Kong

Build up the necessary clusters conducive to the overall development of Hong Kong as a knowledge-based economy that spearheads exploitation and commercialisation of IP and supports enterprises to make the most of IP as a core business asset that should be built, managed, valued and leveraged strategically to drive innovation and growth

Explore means to promote Hong Kong's creative industries, innovative technologies and IP economies through IP creation, protection, exploitation, management and trading

Strategic Areas

I. Enhancing the IP protection regime

Focus Strategies

1. Develop an Original Grant Patent (OGP) system in Hong Kong in parallel with the existing re-registration system, and encourage quality filings from local, Mainland and overseas

2. Keep the other components of our IP regime (copyright, registered design, trademarks, etc) under constant review to ensure that the system follows international norms, on par with IP regimes of advanced economies, and conducive to IP trading

II. Supporting IP creation and exploitation

3. Support industries in meeting strategic needs through creation, exploitation, acquisition and management of IP

4. Support R&D, technology transfer, and acquisition and commercialisation of IP

5. Support creative industries in engaging in licensing and franchising arrangements

III. Fostering IP intermediary services and manpower capacity

6. Facilitate the provision of highly specialised professional services in IP trading, e.g. –

- a. IP valuation
- b. IP financing
- c. IP insurance
- d. IP arbitration and mediation
- e. IP due diligence
- f. IP matching services (e.g. IP trading platforms)

7. Attract and nurture talents in IP activities, support the building of strong IP related professions

IV. Promotion, education and external collaboration

8. Brand and market Hong Kong as a premiere IP trading hub to attract overseas/ Mainland IP owners and users, as well as inter-mediaries

9. Foster an IP awareness culture in society especially among SMEs and the younger generation, and promote the importance and opportunities brought by IP management and trading

10. Collaborate with Mainland, overseas and international IP authorities in fostering the development of IP trading inter-nationally and in the region

Promotion of intellectual property trading in Hong Kong

List of relevant papers

Date of meeting	Meeting	Minutes/Paper	LC Paper No.
23/1/2013	Panel on Commerce and Industry	Administration's paper Minutes meeting of	CB(1)436/12-13(03) http://www.legco.gov.hk/yr12-13/english/panels/ci/papers/ci0123cb1-436-3-e.pdf CB(1)694/12-13 http://www.legco.gov.hk/yr12-13/english/panels/ci/minutes/ci20130123.pdf
19/2/2013	Panel on Commerce and Industry	Administration's paper Updated background brief Minutes meeting of	CB(1)534/12-13(05) http://www.legco.gov.hk/yr12-13/english/panels/ci/papers/ci0219cb1-534-5-e.pdf CB(1)534/12-13(06) http://www.legco.gov.hk/yr12-13/english/panels/ci/papers/ci0219cb1-534-6-e.pdf CB(1)830/12-13 http://www.legco.gov.hk/yr12-13/english/panels/ci/minutes/ci20130219.pdf
20/3/2013	Council meeting	Motion moved by Hon Martin LIAO	Hansard (Page 7648-7782) http://www.legco.gov.hk/yr12-13/english/counmtg/hansard/cm0320-translate-e.pdf

Date of meeting	Meeting	Minutes/Paper	LC Paper No.
			Progress report http://www.legco.gov.hk/yr12-13/english/counmtg/motion/cm0320-m4-prpt-e.pdf
21/5/2013	Panel on Commerce and Industry	Administration's paper Background brief Minutes of meeting	CB(1)1026/12-13(06) http://www.legco.gov.hk/yr12-13/english/panels/ci/papers/ci0521cb1-1026-6-e.pdf CB(1)1026/12-13(07) http://www.legco.gov.hk/yr12-13/english/panels/ci/papers/ci0521cb1-1026-7-e.pdf CB(1)1485/12-13 http://www.legco.gov.hk/yr12-13/english/panels/ci/minutes/ci20130521.pdf
17/12/2013	Panel on Commerce and Industry	Administration's paper Updated background brief Minutes of meeting	CB(1)516/13-14(05) http://www.legco.gov.hk/yr13-14/english/panels/ci/papers/ci1217cb1-516-5-e.pdf CB(1)516/13-14(06) http://www.legco.gov.hk/yr13-14/english/panels/ci/papers/ci1217cb1-516-6-e.pdf CB(1)883/13-14 http://www.legco.gov.hk/yr13-14/english/panels/ci/minutes/ci20131217.pdf

Date of meeting	Meeting	Minutes/Paper	LC Paper No.
15/1/2014	Establishment Subcommittee meeting	<p>Administration's paper</p> <p>Minutes of meeting</p>	<p>EC(2013-14)19</p> <p>http://www.legco.gov.hk/yr13-14/english/fc/esc/papers/e13-19e.pdf</p> <p>ESC36/13-14</p> <p>http://www.legco.gov.hk/yr13-14/english/fc/esc/minutes/esc20140115.pdf</p>
2/4/2014	Finance Committee	<p>Administration's replies to Members' initial written questions raised by Ir Dr Hon LO Wai-kwok</p> <p>Administration's replies to Members' initial written questions raised by Hon CHUNG Kwok-pan</p>	<p>Reply Serial No. CEDB(CIT)105</p> <p>http://www.legco.gov.hk/yr13-14/english/fc/fc/w_q/cedb-cit-e.pdf</p> <p>Reply Serial No. CEDB(CIT)049</p> <p>http://www.legco.gov.hk/yr13-14/english/fc/fc/w_q/cedb-cit-e.pdf</p>