

立法會
Legislative Council

LC Paper No. CB(1)1159/15-16
(These minutes have been seen
by the Administration)

Ref : CB1/BC/2/15

Bills Committee on Patents (Amendment) Bill 2015

**Minutes of the eighth meeting
on Monday, 25 April 2016, at 2:30 pm
in Conference Room 2 of the Legislative Council Complex**

Members present : Hon Martin LIAO Cheung-kong, SBS, JP (Chairman)
Hon WONG Kwok-hing, BBS, MH
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon Charles Peter MOK, JP
Hon SIN Chung-kai, SBS, JP
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon CHUNG Kwok-pan

Members absent : Hon Andrew LEUNG Kwan-yuen, GBS, JP
Hon WONG Ting-kwong, SBS, JP
Hon Paul TSE Wai-chun, JP
Hon Alan LEONG Kah-kit, SC
Hon WONG Yuk-man
Hon Dennis KWOK

Public officers attending : Agenda Item II
Commerce and Economic Development Bureau

Mr David WONG, JP
Deputy Secretary for Commerce and Economic
Development (Commerce and Industry) 2

Miss Fabia TAM
Principal Assistant Secretary for Commerce and
Economic Development (Commerce and Industry)³

Mr Kevin LI
Assistant Secretary for Commerce and Economic
Development (Commerce and Industry)^{3B}

Intellectual Property Department

Miss S K LEE
Deputy Director of Intellectual Property

Mr Thomas TSANG
Assistant Director of Intellectual Property (Patents)

Department of Justice

Ms Mabel CHEUNG
Acting Senior Assistant Law Draftsman
(Professional Development)

Mr Gary LI
Government Counsel

Clerk in attendance : Mr Desmond LAM
Chief Council Secretary (1)³

Staff in attendance : Ms Wendy KAN
Assistant Legal Adviser 6

Ms Connie HO
Senior Council Secretary (1)³

Ms May LEUNG
Legislative Assistant (1)³

Miss Zoe YIP
Clerical Assistant (1)³

Action

I. Confirmation of minutes of meeting

(LC Paper No. CB(1)822/15-16 -- Minutes of meeting held on 22 December 2015)

The minutes of the meeting held on 22 December 2015 were confirmed.

II. Meeting with the Administration

Committee stage amendments

(LC Paper No. CB(1)821/15-16(01) -- List of follow-up actions arising from the discussion at the meeting on 11 April 2016

LC Paper No. CB(1)821/15-16(02) -- Letter from Hon WONG Yuk-man dated 8 April 2016

LC Paper No. CB(1)821/15-16(03) -- Draft Committee stage amendments ("CSAs") proposed by Hon WONG Yuk-man

LC Paper No. CB(1)833/15-16(01) -- Administration's responses to issues raised at the meeting on 11 April 2016; and the updated set of draft CSAs and its marked-up version proposed by the Administration

Other relevant papers

LC Paper No. CB(3)101/15-16 -- The Bill

LC Paper No. CB(1)219/15-16(01) -- Marked-up copy of the Bill prepared by the Legal Service Division (Restricted to members only)

LC Paper No. CB(1)413/15-16(01) -- Assistant Legal Adviser's letter dated 8 January 2016 to the Administration

Action

- LC Paper No. CB(1)505/15-16(03) -- Administration's responses to enquiries raised by the Assistant Legal Adviser in the letter dated 8 January 2016
- LC Paper No. CB(1)575/15-16(03) -- Assistant Legal Adviser's letter dated 17 February 2016 to the Administration
- LC Paper No. CB(1)757/15-16(03) -- Administration's responses to enquiries raised by the Assistant Legal Adviser in the letter dated 17 February 2016
- LC Paper No. CB(1)700/15-16(03) -- Assistant Legal Adviser's letter dated 16 March 2016 to the Administration
- LC Paper No. CB(1)757/15-16(04) -- Administration's responses to enquiries raised by the Assistant Legal Adviser in the letter dated 16 March 2016
- File Ref: CITB 06/18/23 -- Legislative Council Brief issued by Commerce and Economic Development Bureau
- LC Paper No. LS9/15-16 -- Legal Service Division Report)

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

Committee stage amendments

3. The Bills Committee noted Mr WONG Yuk-man's proposed CSAs to clauses 11, 14 and 45 of the Patents (Amendment) Bill 2015 ("the Bill") for improving the drafting and clarity of the provisions of the Bill (LC Paper No. CB(1)821/15-16(03)). The Bills Committee also considered Mr WONG's request per his letter (LC Paper No. CB(1)842/15-16(01)) that the Chairman of the Bills Committee be invited to move his proposed CSAs on behalf of the Bills Committee. After deliberation, the Bills Committee decided not to accede to Mr WONG's request. The Bills Committee also decided not to propose any CSAs to the Bill.

Action

4. The Bills Committee raised no objection to all the draft CSAs proposed by the Administration (LC Paper Nos. CB(1)833/15-16(01) and CB(1)842/15-16(02)). In this connection, the Chairman advised that the Bills Committee had completed scrutiny of the Bill and that no further meeting of the Committee would be held.

(Post-meeting note: The updated version of the whole set of CSAs proposed by the Administration was issued to members vide LC Paper No. CB(1)867/15-16 (01) on 3 May 2016.)

Legislative timetable

5. The Bills Committee raised no objection to the resumption of the Second Reading debate on the Bill at the Council meeting of 1 June 2016. The Chairman informed members that the Bills Committee would submit a written report to the House Committee at its meeting on 20 May 2016. The deadline for giving notice to move CSAs, if any, to the Bill was 23 May 2016.

III. Any other business

6. There being no other business, the meeting ended at 3:17 pm.

Council Business Division 1
Legislative Council Secretariat
11 August 2016

**Proceedings of the eighth meeting of
the Bills Committee on Patents (Amendment) Bill 2015
on Monday, 25 April 2016, at 2:30 pm
in Conference Room 2 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
Agenda Item I – Confirmation of minutes			
000000 – 000145	Chairman	Confirmation of minutes of the meeting held on 22 December 2015 (LC Paper No. CB(1)822/15-16).	
Agenda Item II – Meeting with the Administration			
000146 – 001019	Chairman Legal Adviser to the Bills Committee ("ALA6") Administration	<p>Briefing by the Administration on its responses to the list of follow-up action arising from discussion at the meeting on 11 April 2016 (LC Paper No. CB(1)833/15-16(01)).</p> <p><u>New section 89A(2) under clause 78 of the Bill</u> The Administration's response to ALA6's enquiry that "被告人證明" would be added to the Chinese text of the new section 89A(2)(c) to align with its English text, as well as the Chinese text of the new section 89A(2)(a) and (b).</p> <p><u>New section 127B under clause 120 of the Bill</u> The Administration's advice that –</p> <p>(a) the Chinese term "爭議" was more appropriate than the term "抗辯" for referring to "the validity of the patent" ("專利的有效性") being contested in legal proceedings in the context of the relevant section; and</p> <p>(b) the term "抗辯" currently in section 84 of the Patents Ordinance (Cap. 514) should be revised to "爭議" to align with the corresponding term used in the new section 127B and such an issue would be dealt with separately by the making of an Order under the Legislation Publication Ordinance (Cap. 614).</p> <p>Members raised no query on the Administration's response.</p>	
001020 – 002122	Chairman Administration	The Chairman briefed members on the draft Committee stage amendments ("CSAs") proposed by Mr WONG Yuk-man (LC Paper No. CB(1)821/15-16(03)(Revised on 22 April 2016)) to	

Time marker	Speaker	Subject(s)	Action required
		<p>clauses 11, 14 and 45 of the Patents (Amendment) Bill 2015 ("the Bill") and Mr WONG's request per his letter (LC Paper No. CB(1)842/15-16(01)) that the Chairman of the Bills Committee be invited to move his proposed CSAs on behalf of the Bills Committee.</p>	
002123 – 002453	Chairman Ir Dr LO Wai-kwok Administration	<p>The Administration briefed members on its responses (LC Paper No. CB(1)842/15-16(02)) to Mr WONG Yuk-man's draft CSAs.</p> <p><i>Clause 11 of the Bill</i> <u>New section 9B(6)</u> <u>New section 9B(7)</u> <u>New section 9B(8)</u> <u>New section 9B(8)</u></p> <p>Members raised no query on the Administration's response to the draft CSAs proposed by Mr WONG Yuk-man on the above new sections under clause 11 of the Bill.</p>	
002454 – 004200	Chairman Ir Dr LO Wai-kwok Administration	<p><i>Clause 14 of the Bill</i> <u>Section 11</u> Members raised no query on the Administration's response to Mr WONG Yuk-man's proposed draft CSA to clause 14 of the Bill.</p> <p><i>Clause 45 of the Bill</i> <u>New section 37T(2)(b)</u></p> <p>Members agreed with the Administration's proposed CSA to improve the drafting of the Chinese text of the above new section relating to non-payment of the prescribed fee.</p> <p><u>New section 37U(3)(d)(ii)</u> <u>New section 37U(3)(e)</u> <u>New section 37U(4)</u> <u>New sections 37U(6)</u> <u>New section 37ZA(2)</u> <u>New section 37ZC(b)</u></p> <p>Members raised no query on the Administration's responses to Mr WONG Yuk-man's proposed draft CSAs in respect of the above new sections under clause 45 of the Bill. Apart from noting the Administration's proposed CSAs to improve the Chinese text of the new section 37U(3)(d)(ii) under clause 45 of the Bill and the corresponding Chinese text of the new section 127C(2)(e)(ii) under clause</p>	

Time marker	Speaker	Subject(s)	Action required
		120 of the Bill, Members also noted that the Administration would adopt Mr WONG's proposed CSAs to the Chinese text of the definition of "specified new application" in the new section 37U(6) under clause 45 of the Bill and the corresponding Chinese text of the new section 127C(5) under clause 120 of the Bill. Further, Members noted that the Administration would propose CSAs to improve the Chinese text of the new section 37ZC(b) under clause 45 of the Bill and the corresponding Chinese text of section 121(2) under clause 114 of the Bill.	
004201 – 004429	Chairman Ir Dr LO Wai-kwok Mr Jeffrey LAM Administration	The Chairman's remarks that the Bills Committee had not received any proposed draft CSAs to the Bill from members other than Mr WONG Yuk-man. He asked members whether the Bills Committee should accede to Mr WONG's request (LC Paper No. CB(1)842/15-16(01)) for the Chairman of the Bills Committee to move his proposed CSAs on behalf of the Bills Committee. After deliberation, the Bills Committee decided not to accede to Mr WONG's request.	
004430 – 004838	Chairman Administration	<p>The Bills Committee raised no objection to all the draft CSAs proposed by the Administration.</p> <p>The Chairman concluded that the Bills Committee had completed scrutiny of the Bill and that no further meeting of the Committee would be held.</p> <p>Legislative timetable</p>	