

香港特別行政區政府

商務及經濟發展局
工商及旅遊科

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**COMMERCE AND ECONOMIC
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5 April 2016

Ms Wendy KAN
Assistant Legal Adviser 6
Legal Service Division
Legislative Council Secretariat

Dear Ms KAN,

Patents (Amendment) Bill 2015

Thank you for your letter dated 16 March 2016. Please find below our responses to your questions. Unless stated otherwise, the provisions cited below refer to those of the Patents Ordinance (Cap. 514).

Part I: Legal Issues

Clause 96 and 106 of the Bill

2. As we set out in our letter dated 5 April 2016, we will amend the definitions of “non-Hong Kong application” and “specified application” in the proposed new sections 37A and 37M(6). Accordingly, the same definitions in the proposed new sections 108A and 114(7) will also be amended.

Clause 116 and 120 of the Bill

3. We explained in paragraphs 16 and 17 of our letter dated 5 April 2016 why it is not necessary under the proposed new section 37V(2) to explicitly require the Registrar to give reasons in his/her opinion that a patent fails to comply with the examination requirements. For the same consideration, it is not necessary to impose a similar explicit requirement under the proposed new section 124 and 127D(2).

Clause 129 of the Bill

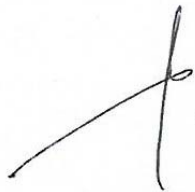
4. We note your observation on the expression “would be likely to give the impression” and are considering refinements as appropriate.

Part II: Drafting Issue

Clause 120 of the Bill

5. Thank you for your observation. We will amend the section by replacing “are allowed” by “is allowed”.

Yours sincerely,

A handwritten signature in black ink, consisting of a long, sweeping horizontal stroke followed by a vertical stroke that curves slightly to the right at the top.

(Mr Kevin LI)

for Secretary for Commerce and Economic Development

- c.c. Ms Mabel CHEUNG, Senior Assistant Law Draftsman (Acting)
Mr Gary LI, Government Counsel
Miss S K LEE, Deputy Director of Intellectual Property
Mr Thomas TSANG, Assistant Director of Intellectual Property