

**For discussion
on 19 February 2019**

Legislative Council Panel on Commerce and Industry

Promotion of Intellectual Property Trading in Hong Kong

Purpose

This paper briefs Members on the latest developments of the promotion of intellectual property (“IP”) trading in Hong Kong.

IP trading in Hong Kong

2. With a sound legal system, sophisticated financial markets, world-class professional services, close ties with the Mainland of China, as well as rich experience and expertise in working with the rest of the world, Hong Kong is well placed to serve as an IP trading hub. We also provide robust protection for IP rights. According to the 2018 Global Competitiveness Report released by the World Economic Forum, Hong Kong was ranked ninth out of 140 economies in terms of IP protection. Building on these strong foundations, the Government has been taking a wide range of measures to promote IP commercialisation and IP trading in Hong Kong, and to strengthen Hong Kong’s role as an IP trading hub in the Asia-Pacific region, in accordance with the recommendations made by the Working Group on IP Trading in 2015 and in close collaboration with stakeholders.

Latest Position and Progress

3. Major progress made so far and work plans in the pipeline are set out in the ensuing paragraphs for Members’ information:-

(a) *Business of IP (“BIP”) Asia Forum*

4. The BIP Asia Forum was first held in Hong Kong in 2011. Since 2013, the Government has been co-organising this annual event with the Hong Kong Trade Development Council (“HKTDC”) and the Hong Kong Design Centre. Over these years, the BIP Asia Forum has grown in size and influence. It has become one of the premier IP events in the Asia-Pacific Region. With

the theme of “IP and Innovation in the New Socio-technological Landscape”, the eighth edition of the BIP Asia Forum held on 6-7 December 2018 featured over 80 renowned speakers, including senior officials from the National IP Administration of China (“CNIPA”), World Intellectual Property Organization and World Trade Organization, and attracted more than 2 600 participants from 28 countries and regions, tripling the attendance of the inaugural forum in 2011.

5. To maintain the momentum and enhance the appeal of the Forum, HKTDC has strengthened the IP elements for entrepreneurs & start-ups in the 2018 Forum. One of the highlights was the “IPHatch Hong Kong Launch”, which is a start-up competition aiming to inspire entrepreneurs to come up with new business ideas by making use of existing patents offered by the Hong Kong Applied Science and Technology Research Institute and some other institutions. Entry for the competition will end in March 2019, and the results will be announced in due course.

(b) Hong Kong International Licensing Show (“HKILS”) and Asian Licensing Conference (“ALC”)

6. Licensing is one of the most dynamic forms of IP trading. It enables a more flexible and diversified use of an IP right, so as to fully exploit its economic value. The 16th edition of HKILS, organised by HKTDC, was held on 7-9 January 2019. The Show featured over 400 exhibitors representing more than 1 000 brands and properties from 14 countries and regions, and attracted more than 23 000 participants from over 100 countries and regions. This three-day event has risen to become the second largest show of its kind in the world and the largest in Asia. It provides an effective marketing platform for businesses to capitalise on the fastest growing Asian licensing opportunities. A total of 680 business matching sessions were arranged to connect exhibitors with buyers at the HKILS.

7. Apart from the participation of the popular Hong Kong IPs, three new elements were introduced into the Show this year:-

- (a) Design, Licensing And Business (“DLAB”) Hong Kong Pavilion: The Pavilion featured 40 Hong Kong companies with young home-grown IPs. It was a major initiative under the DLAB Support Scheme financed by the CreateSmart Initiative of Create Hong Kong of the Commerce and Economic Development Bureau;
- (b) Hong Kong IP Pitching Day: This event, which aims to facilitate business-matching, featured the brand stories of 20 home-grown exhibitors from different sectors.

- (c) **Art and Museum Zone**: The Zone presented the IPs of 13 museums worldwide to enrich the presence of art and culture IPs in the Show.

8. The 8th Asian Licensing Conference, which was held on 7-8 January 2019 in parallel with HKILS, featured over 30 renowned speakers from around the world, and attracted an attendance of more than 1 300 industry players from 25 countries and regions. The Conference provides a dedicated platform for licensing industry players to expand their business network and explore new room for cross-collaborations in the region. Topics covered in the Conference include the latest market trends of Asia, potential of China's licensing market, and opportunities arising from E-sports as new licensing spotlights.

(c) ***Asia IP Exchange (“AsiaIPEX”)***

9. AsiaIPEX is a free online platform and database showcasing IPs around the globe. The portal, developed and managed by HKTDC, aims to facilitate international IP trade and connection for global IP players. As at January 2019, AsiaIPEX has already formed strategic partnerships with over 35 local research and development centres and technology transfer units of local universities as well as organisations worldwide. Over 28 000 tradable IP listings are available at the portal, representing an increase of 12% when compared to the figure three years ago. HKTDC will continue to promote the portal and encourage user registration through various means including e-newsletters, advertisements and outdoor publicity promotions.

(d) ***Tax deductions for capital expenditure incurred for purchasing IP rights***

10. The Inland Revenue (Amendment) (No. 5) Ordinance 2018 (“the Amendment Ordinance”), passed by the Legislative Council (“LegCo”) on 20 June 2018, came into operation on 29 June 2018. The Amendment Ordinance has expanded the scope of profits tax deductions for capital expenditure incurred by enterprises for the purchase of IP rights from five types to eight with effect from the year of tax assessment 2018/19. The original five types of IP rights covered by the regime are patents, know-how, copyright, registered designs and registered trade marks. The three types of IP rights newly added to the regime are layout-design of integrated circuits, plant variety rights and rights in performances¹.

¹ The three IP rights are protected in Hong Kong by specific ordinances, viz, Layout-Design (Topography) of Integrated Circuits Ordinance (Cap. 445), Plant Varieties Protection Ordinance (Cap. 490) and Copyright Ordinance (Cap. 528) respectively. They are also covered under the Agreement on Trade-Related Aspects of Intellectual Property Rights of the World Trade Organization.

11. The Amendment Ordinance has also expanded the scope of tax deductions originally provided for the registration expenses for trade marks, designs and patents, to cover plant variety rights as well. These are all registrable IP rights in Hong Kong.

12. With the expansion in the scope of tax deductions, capital expenditure incurred by enterprises for the purchase of various major types of IP rights, as well as the expenses for the registration of IP rights under applicable regimes, are deductible under the Inland Revenue Ordinance (Cap. 112). By way of the above measures, we aim to provide greater incentives for enterprises to engage in the development and trading of IP in their business, and add new impetus to our efforts in promoting Hong Kong as an IP trading hub in the region.

(e) Support for Small and Medium-sized Enterprises

13. Small and Medium-sized Enterprises (“SMEs”) are a major pillar of the Hong Kong economy. To unleash their potential in engaging in IP commercialisation and IP trading, and to better equip them for tapping the huge opportunities presented, we have been working with the relevant stakeholders in taking forward the following initiatives:

- (a) Free IP Consultation Service: The Intellectual Property Department (“IPD”), in collaboration with the Law Society of Hong Kong (“Law Society”), have been providing free consultation to SMEs on IP protection, management and commercialisation. Since the pilot launch of the initiative in December 2014, over 320 consultation sessions had been held by end December 2018. The services provided were well-received by the attending SMEs. According to the user surveys conducted by IPD from time to time, 98% of the users were satisfied with the service.
- (b) IP Manager Scheme: In May 2015, IPD launched the IP Manager Scheme to help SMEs to build up their IP manpower capacity and boost competitiveness through IP management and commercialisation. As at end December 2018, over 860 SMEs have joined the Scheme and over 1 500 participants have attended the IP Manager training programmes organised by IPD under the Scheme. IPD also launched in April 2016 the IP Manager Practical Workshop for those who have attended the aforesaid training programmes. As at end December 2018, IPD has run 12 workshops for more than 400 participants. The training

programmes and the workshops received very positive feedback from attendees. According to the user surveys conducted by IPD in 2018, over 70% of the respondents who have joined the IP Manager training programmes found the training very good or outstanding. As regards the IP Manager Practical Workshop, over 84% of the respondents who have attended found it very useful.

- (c) Sponsorship for IP training courses: Since October 2015, IPD has been sponsoring training courses on IP related subjects conducted by professional bodies, academic institutions and business organisations. This initiative aims to impart knowledge and practical skills in specialised areas of IP to trainees². As at end December 2018, a total of 492 participants have attended various sponsored training courses. IPD will continue to sponsor programmes which help to upgrade the IP manpower capacity in enterprises.
- (d) Advisory services at HKTDC's SME Centre: Since March 2015, HKTDC has broadened the scope of its advisory services at its SME Centre to cover exclusive IP related issues for helping Hong Kong companies make better use of their IPs. HKTDC will continue to promote the service, and work with IP experts and industry associations to provide basic IP consultation service free of charge.

14. Public education plays a crucial role in the promotion of IP trading. IPD has focused its publicity efforts on SMEs, and will continue to do so, through the production of TV Announcement in the Public Interests ("APIs"), leaflets and print advertisement. Short videos on success stories of IP commercialisation are produced and uploaded onto the website from time to time. The Department will also leverage on online platforms and social media for putting the message across to a much wider audience.

(f) Survey on Manpower in IP Trading and Management

15. Like many businesses, manpower is an indispensable component for the business of IP trading and management to thrive and sharpen its strengths. To complement the host of measures which Hong Kong has been taking to enhance the manpower capacity of SMEs for developing IP trading

² The professional bodies, academic institutions and business organisations include the Hong Kong Productivity Council, the Knowledge Transfer Office of the City University of Hong Kong, the Royal Institution of Chartered Surveyors, and the Federation of Hong Kong Industries. Topics covered include advanced patent series on "Right-to-use search", IP valuation, technology transfer & patent and licensing process, as well as preparation for the National Qualification Examination for Patent Agents.

and to strengthen its role as an IP trading hub in the Asia-Pacific Region, IPD commissioned a Survey on Manpower in IP Trading and Management (“the Survey”) in 2017. The Survey collected information on the current landscape of the workforce engaged in IP intermediary services³ and IP trading/management activities⁴ in Hong Kong, the types of services engaged by the relevant industry groups, the job level spreads and the market demand for the personnel involved. The results were released on 28 December 2018⁵.

16. The Survey is the first study dedicated to IP manpower in Hong Kong. The survey results confirmed that legal services play a pivotal role in providing intermediary services for IP protection, management and trading activities. Apart from industry groups providing intermediary services, IP trading/management activities are also prevalent in a wide range of other selected industry groups, particularly those in the creative industries.

17. Taking into account the feedback received in the Survey, IPD will refine the training course and workshop mentioned in paragraph 13(b) above, and where appropriate, launch dedicated workshops for specific industries with a view to better meeting the needs of the SMEs, especially those in IP-related industries. IPD will enhance its efforts to encourage the SMEs in these industries to arrange their staff to attend these training courses as part of their "on-the-job" training. IPD will also enhance the publicity of such programmes to relevant trade associations and tertiary institutions to equip interested stakeholders as well as tertiary students aspiring to join the IP-related industries with the necessary basic skills and knowledge. The above efforts not only aim to enhance the capacity of IP-related staff for the relevant work, but also facilitate the efforts of the establishments in identifying suitable new staff to cope with evolving business needs.

(g) Collaboration with professional bodies

18. IPD, in collaboration with the Law Society, published two booklets entitled “*Intellectual Property Audit and Due Diligence*” and “*Intellectual Property Licensing*” in 2017. The former booklet aims to provide information and practical guidelines to SMEs on IP audit in their day-to-day management and due diligence for IP transactions, while the latter seeks to provide readers with more fundamental ideas about IP licensing.

³ “IP intermediary services” generally refer to the services provided by IP intermediaries that facilitate and/or support IP trading and management. Such services include legal, accounting, financial, agency, consultancy and related services.

⁴ “IP trading/management activities” generally refer to the buying, selling, transferring and licensing of IP rights; and management of the IP assets.

⁵ The summary of survey results is available on the dedicated website "Hong Kong - the IP Trading Hub" (www.ip.gov.hk/en/resources/survey.html).

(h) Promote the resolution of IP disputes through arbitration and mediation

19. The Department of Justice (“DoJ”) has been spearheading the development and promotion of Hong Kong as an international legal and dispute resolution services centre. On the IP front, DoJ has been working closely with IPD and other relevant stakeholders to feature IP as a specialised area which can benefit from means of alternative dispute resolution, notably arbitration and mediation. Details of the relevant collaborations are as follows:

- (a) Amendments to the Arbitration Ordinance: The amendments, put forward by DoJ, were enacted in 2017 to clarify that disputes over IP rights may be resolved by arbitration. Such amendments are instrumental to enhancing the legal certainty for parties resorting to arbitration as a means of resolving IP disputes, and attracting more parties to resolve their IP disputes by arbitration in Hong Kong.⁶ IPD has been providing staunch support to DoJ in the legislative process.
- (b) Publicity and Promotion activities: IPD has also been working with DoJ on the publicity and promotion activities. In March 2018, for example, IPD and DoJ jointly organised an IP Arbitration Talk for SMEs, with the topic of “Arbitration – An Effective Tool for SMEs to Resolve IP Disputes”. To explore the use of evaluative mediation in resolving IP disputes, IPD also provided support to DoJ in running a seminar on “Use of Evaluation in Mediation” in the Mediation Week in May 2018. Moreover, DoJ and HKTDC have been co-organising breakout sessions, as part of the programme of the BIP Asia Forum in recent years, to share with participants the latest developments in IP dispute resolution and promote the use of arbitration and mediation to resolve IP disputes.
- (c) Collaboration with relevant bodies in the Mainland: DoJ and IPD, together with representatives of the IP professional bodies and some local arbitration and mediation centres, visited the Guangzhou Intellectual Property Arbitration Centre, the Guangzhou Intellectual Property Court and the Guangzhou Development District in November 2017, with a view to fostering collaboration and exploring room for further co-operation on IP

⁶ The Arbitration (Amendment) Ordinance 2017, passed by LegCo, was enacted in June 2017. Most of the provisions concerning arbitration of IP disputes have come into effect since January 2018.

dispute resolution.

20. Going forward, DoJ and IPD will continue their collaborative efforts to promote the effectiveness of resolving IP disputes by way of arbitration and mediation.

(i) Foster collaboration with IP authorities outside Hong Kong

21. Hong Kong, as an international city and a gateway to China, has been sparing no efforts in collaborating with IP authorities on the Mainland and overseas to promote IP trading and IP commercialisation. We would make good use of such opportunities to put across the important messages on Hong Kong's strengths and appeal as an IP trading hub:-

- (a) Bilateral cooperation with other economies: IPD signed two Memorandums of Understanding ("MOU") with the IP offices of Mexico and Korea respectively in early 2015 to foster cooperation and promote IP commercialisation. The Department has been exploring the signing of similar MoUs with other economies.
- (b) Cooperation at the level of Asia-Pacific Economic Cooperation ("APEC"): As a member of the APEC IP Experts Group, Hong Kong has joined hands with other APEC economies in promoting IP trading. In June 2018, IPD hosted in Hong Kong, in collaboration with the IP offices of Mexico and Korea, a two-day workshop on "Promoting Best Practices in Licensing for Creative Industries" as an initiative of the APEC IP Expert Group for SMEs in APEC economies (especially SMEs in the creative industries). With a view to promoting best practices and strategies in IP licensing and commercialisation, the workshop featured 25 speakers and experts in the IP licensing field from China, Hong Kong, Mexico, Korea and the United States. The event was well-received and attended by some 250 participants comprising SMEs, professional practitioners and government officials from various APEC economies.
- (c) Cooperation with the Mainland IP authorities: IPD also worked closely with IP authorities on the Mainland at different levels to promote IP trading under the respective auspices of the Belt and Road Initiative ("B&R Initiative") and the Guangdong-Hong Kong-Macao Bay Area ("Greater Bay Area") development:
 - (i) In October 2017, the annual IP Symposium between the

Mainland, Hong Kong and Macao took place in Hong Kong.

- (ii) In November 2017, IPD signed the “Agreement on IP Co-operation in the Pan-Pearl River Delta Region in the context of the Belt and Road” to further foster the development of IP trading in the region.
- (iii) Meanwhile, IPD is taking forward a wide array of activities with the IP authorities in Guangdong under the framework of the “Guangdong / Hong Kong Expert Group on the Protection of IP Rights”⁷. In November 2018, for example, IPD produced in collaboration with the Guangdong counterparts a series of videos featuring success stories on IP commercialisation (patents and copyright) by Hong Kong enterprises in the Greater Bay Area, with a view to promoting IP trading and awareness of the IP business opportunities in the area⁸.

Way Forward

22. Looking ahead, the IP landscape of Hong Kong will continue to evolve, with the launch of the “original grant patent” system in Hong Kong⁹ (scheduled for 2019) and the implementation of the international trade marks registration system under the Madrid Protocol in Hong Kong¹⁰ (scheduled for 2022-23). These developments will add new impetus to Hong Kong’s efforts in promoting IP trading. At the same time, the B&R Initiative and the Greater Bay Area development will give rise to immense opportunities for many sectors in Hong Kong, including those involved in IP trading. We will press ahead with the various initiatives to capitalise on these opportunities, so as to enable Hong Kong to make the best out of these developments and opportunities, for promoting IP trading and strengthening Hong Kong’s role as an IP trading hub in the Asia-Pacific region.

⁷ The activities aim to promote IP trading in general, foster the development of high-end IP commercialisation, and enhance the development of high-end IP professional services in the region and particularly in the Greater Bay Area. A total of 29 cooperation items have been completed under the “Guangdong/Hong Kong Expert Group on the Protection of IP Rights” in 2017/18.

⁸ Preparatory work for success stories on trade mark commercialisation is underway.

⁹ We briefed the Panel in June 2018 on the proposed legislative amendments to the Patents (General) Rules (Cap. 514C) regarding the detailed procedures for the effective operation of the new patent system.

¹⁰ We briefed the Panel in November 2018 on the proposed legislative amendments to the Trade Marks Ordinance (Cap. 559) for implementation of the Madrid Protocol in Hong Kong. The full title of Madrid Protocol is “The Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks”.

Views Sought

23. Members are invited to take note of the progress of our work.

Commerce and Economic Development Bureau
Commerce, Industry and Tourism Branch
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