

Head 78 — INTELLECTUAL PROPERTY DEPARTMENT

Controlling officer: the Director of Intellectual Property will account for expenditure under this Head.

Estimate 2008–09 **\$92.7m**

Establishment ceiling 2008–09 (notional annual mid-point salary value) representing an estimated 82 non-directorate posts as at 31 March 2008 rising by 23 posts to 105 posts as at 31 March 2009 **\$50.0m**

In addition, there will be an estimated seven directorate posts as at 31 March 2008 and as at 31 March 2009.

Commitment balance **\$1.8m**

Controlling Officer's Report

Programmes

Programme (1) Statutory Functions
Programme (2) Protection of Intellectual Property

These programmes contribute to Policy Area 6: Commerce and Industry (Secretary for Commerce and Economic Development).

Detail

Programme (1): Statutory Functions

	2006–07 (Actual)	2007–08 (Original)	2007–08 (Revised)	2008–09 (Estimate)
Financial provision (\$m)	61.4	64.9	63.1 (–2.8%)	70.9 (+12.4%)
				(or +9.2% on 2007–08 Original)

Aim

2 The aim is to provide cost-effective and efficient systems for the registration and administration of trademarks, patents, designs and copyright licensing bodies in Hong Kong.

Brief Description

3 The statutory functions involve:

- examining trademark applications, conducting registrability and opposition hearings, maintaining the register of trademarks and making it available for public search;
- examining patent applications, granting short-term patents, registering patents granted by designated Patent Offices, maintaining the register of patents and making it available for public search;
- examining design applications, maintaining the register of designs and making it available for public search; and
- examining applications for registration of copyright licensing bodies, maintaining the register of copyright licensing bodies and making it available for public search.

4 The Registers of trademarks, patents and designs are all maintained in electronic format. The Department has provided electronic searching, filing, payment and publication services in respect of registration of trademarks, patents and designs since 2003. Using interactive services, the public can directly make changes to particulars of owners and agents of trademarks, patents and designs, extension of time of trademark applications and registration of assignments and assents for registered trademarks and trademark applications. These changes are updated on the Registries' records instantly. The electronic services have been well received. In 2007, the proportion of trademark applications submitted in electronic format rose to 58 per cent, an 11 per cent increase compared to the figure in 2006. For patent and design applications, the proportions of electronic filings were 38 per cent and 42 per cent respectively.

Head 78 — INTELLECTUAL PROPERTY DEPARTMENT

5 The key performance measures in respect of statutory functions are:

Targets

	Target	2006 (Actual)	2007 (Actual)	2008 (Plan)
<i>For trademarks under Trade Marks Ordinance, Cap. 559</i>				
providing first response for trademark applications within two months (%)@.....	95	98	99	95
providing second response for trademark applications within three months (%)Ω	75	85	89	75
delivering hearing decisions on trademarks within six months (%)	80	80	100	90
<i>For patents</i>				
processing standard patent applications within ten days (%)§	80	97	90	80
processing short-term patent applications within ten days (%)§	80	93	90	80
<i>For designs</i>				
processing design applications within ten days (%)§	99	99	99	99

@ Upon receipt of all the required information.

Ω Calculated from the date of expiry of first opinion or from the date of applicant's reply to first opinion.

§ Calculated from the date of application.

Indicators

	2006 (Actual)	2007 (Actual)	2008 (Estimate)
<i>For trademarks under Trade Marks Ordinance, Cap. 559</i>			
applications received	22 994	23 529	23 000
applications successfully registered	17 907	19 395	19 700
first response issued for trademark applications	22 926	22 626	22 000
second response issued for trademark applications.....	2 410	3 394	3 400
hearing decisions issued.....	147	131	100
<i>For patents</i>			
applications for standard patents received	13 790	13 766	13 800
applications for short-term patents received	520	599	570
standard patents granted.....	5 147	4 839	4 900
short-term patents granted.....	436	492	440
<i>For designs</i>			
applications received	3 424	3 254	3 200
designs registered.....	5 356	5 804	6 000
<i>For copyright licensing bodies</i>			
applications received	0	0	0
applications successfully registered	0	0	0
applications for renewal of registration.....	3	3	3

Matters Requiring Special Attention in 2008–09

6 During 2008–09, the Department will continue to promote e-filing to increase the migration rate to 60 per cent for trademark applications, 40 per cent for patent applications and 45 per cent for design applications.

Head 78 — INTELLECTUAL PROPERTY DEPARTMENT

Programme (2): Protection of Intellectual Property

	2006–07 (Actual)	2007–08 (Original)	2007–08 (Revised)	2008–09 (Estimate)
Financial provision (\$m)	18.2	22.1	20.9 (–5.4%)	21.8 (+4.3%)
				(or –1.4% on 2007–08 Original)

Aim

7 The aims are to promote awareness of intellectual property rights, to enhance the reputation of Hong Kong in the protection of intellectual property rights in order to attract investment, and to protect existing and new types of intellectual property rights in line with international trends and standards. Particular attention is paid to providing support for small and medium enterprises (SMEs) to help them protect their intellectual property assets, both in Hong Kong and in the region.

Brief Description

8 This programme area involves:

- advising the Secretary for Commerce and Economic Development on policies and legislation to protect intellectual property in Hong Kong;
- providing civil legal advice on intellectual property matters to government bureaux and departments;
- advising the Secretary for Commerce and Economic Development on relevant developments at the World Intellectual Property Organization (WIPO), World Trade Organization (WTO) and Asia-Pacific Economic Cooperation (APEC);
- participating in consultations, negotiations and committees of experts leading to new or revised international intellectual property rights standards; attending and participating in international seminars, conferences, meetings, etc. on intellectual property rights matters;
- promoting intellectual property services provided by Hong Kong professionals, facilitating the understanding of intellectual property laws and systems in the Pearl River Delta (PRD) by enterprises operating in this region, and helping SMEs build their capacity for intellectual asset management, so that they can exploit their creative potential more fully and focus on sustained prevention of intellectual property infringement; and
- strengthening co-operation with Guangdong Province and the Pan-PRD region so as to assist Hong Kong SMEs operating in the Mainland in protecting their intellectual property assets.

9 The Department has continued its territory-wide campaigns to encourage pride in the selling of genuine goods among Hong Kong retailers, tourists and local consumers. With the aims of promoting the “No Fakes” branding concept to visitors to Hong Kong from Guangdong, the Department has helped the Guangdong provincial intellectual property authorities launch the “No Fakes Pledge” Scheme in eight cities in Guangdong. A new Announcement in Public Interest was jointly produced by the Department and the Guangdong Intellectual Property Office in December 2007.

10 The Department continued its primary and secondary school visits programme into the eleventh year with the aim of promoting respect for intellectual property rights in the younger generation. In 2007, this programme covered 84 schools and 28 453 students.

11 SMEs have remained one of the prime targets of our promotion and education efforts. Through seminars and exhibitions organised by the Department itself or in collaboration with others, the Department has helped SMEs understand the importance of protecting their intellectual property rights and the application of intellectual asset management in business. As a further step to assist the business sector, especially SMEs, to achieve intellectual property compliance, the Department and the Business Software Alliance, in collaboration with other business organisations, launched the Phase II programme under Genuine Business Software Campaign in October 2007 – the “Software Asset Management (SAM) Consultancy Programme” to help business operators better manage their software assets and guard against business end-user piracy. Under the Programme, SAM contractors will be commissioned to provide free on-site professional consultancy service to participating companies, offering advice on best practices in SAM, including the use of software audit tools to prevent software piracy in the workplace. The Programme is open for application from October 2007 to April 2008.

12 In light of the introduction of the directors’/partners’ criminal liability under the Copyright (Amendment) Ordinance 2007, which was passed by the Legislative Council on 27 June 2007, the Department collaborated with trade associations and other government departments to launch promotional and civic education activities to promote the amended Copyright Ordinance to the most closely-affected stakeholders in 2007–08.

Head 78 — INTELLECTUAL PROPERTY DEPARTMENT

13 To celebrate the 10th Anniversary of the Establishment of the HKSAR, an exhibition with the theme – “Intellectual Property in Hong Kong” was organised by the Government of the People’s Republic of China and the WIPO, and co-organised by the Department. The exhibition was held during the WIPO’s General Assembly at the WIPO’s headquarters at Geneva from 24 September 2007 to 12 October 2007. The exhibition showcased various intellectual property works created by Hong Kong people such as calligraphy, design works and movie clips. A Youth Ambassador Programme was also organised during the period.

14 The Department jointly organised the APEC Workshops on Using Market Research to develop effective Intellectual Property Rights (IPR) Campaigns with the intellectual property offices of Australia and Singapore in December 2007. There were two deliverables of this project: first, “ ‘How to’ Guidelines for Conducting Market Research” and model research tools; and second, a three-day regional workshop held in Singapore in December 2007. These three offices also organised a project on APEC IPR Public Education and Awareness Program for SMEs during 2007–08.

15 The key performance measures in respect of protection of intellectual property are:

Indicators

	2006 (Actual)	2007 (Actual)	2008 (Estimate)
visits, seminars, conferences and workshops	248	124 Δ	130
speeches and presentations	47	51	50
media interviews, briefings and press conferences	22	19	18
school visits	71	84	75

Δ As the Department has promoted e-filing through visits since 2005 and 2006 and most of the major customers have become e-filers, the number of visits/seminars/conferences and workshops organised in 2007 was reduced.

Matters Requiring Special Attention in 2008–09

16 During 2008–09, the Department will:

- provide policy, legal and technical advice to the Commerce and Economic Development Bureau in relation to the drafting and enactment of subsidiary legislation under the Copyright (Amendment) Ordinance 2007 and the Copyright Ordinance; and in relation to the formulation of preliminary legislative proposals concerning the review of the Copyright Ordinance on more effective protection of copyright works in the digital environment;
- continue to provide policy, legal and technical advice to the Commerce and Economic Development Bureau in relation to the drafting and enactment of rules of court in relation to the implementation of the Protocol to the Agreement on Trade-Related Aspects of Intellectual Property Rights of the WTO and other follow up matters;
- continue to play a proactive role in the APEC and the Trade-Related Aspects of Intellectual Property Rights Council of the WTO, and through such institutions to provide appropriate technical assistance to developing and least-developed economies overseas;
- support the business community in strengthening their intellectual property protection in the Mainland through the Guangdong/Hong Kong Expert Group on the Protection of Intellectual Property Rights;
- disseminate information through the Internet on the intellectual property systems in the Mainland, Hong Kong Special Administrative Region and Macao Special Administrative Region;
- strengthen the out-reaching effort to young people on intellectual property protection through school visits and media such as computer games and comics;
- organise promotion and education activities specially for SMEs with emphasis placed on using intellectual asset management as a tool for business development in compliance with intellectual property legislation; and
- continue collaboration with stakeholders to strengthen and publicise the “No Fakes Pledge” Scheme to promote the sale of genuine products.

Head 78 — INTELLECTUAL PROPERTY DEPARTMENT

ANALYSIS OF FINANCIAL PROVISION

Programme	2006-07 (Actual) (\$m)	2007-08 (Original) (\$m)	2007-08 (Revised) (\$m)	2008-09 (Estimate) (\$m)
(1) Statutory Functions	61.4	64.9	63.1	70.9
(2) Protection of Intellectual Property ...	18.2	22.1	20.9	21.8
	79.6	87.0	84.0 (-3.4%)	92.7 (+10.4%)
				(or +6.6% on 2007-08 Original)

Analysis of Financial and Staffing Provision

Programme (1)

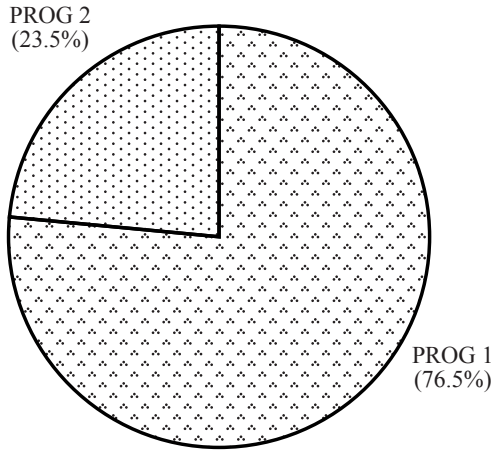
Provision for 2008-09 is \$7.8 million (12.4%) higher than the revised estimate for 2007-08. This is mainly due to the full-year effect for filling vacancies and creation of 22 new posts to meet operational needs, partly offset by the decrease in general departmental expenses.

Programme (2)

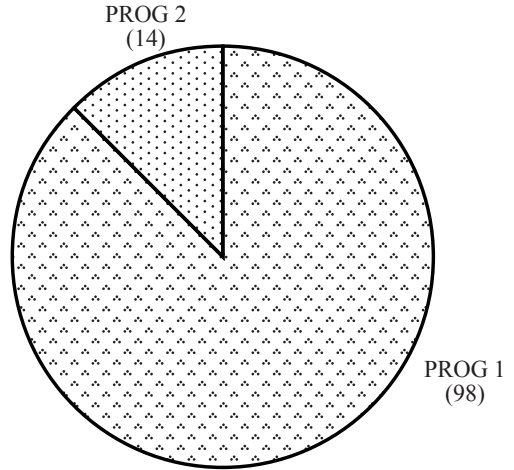
Provision for 2008-09 is \$0.9 million (4.3%) higher than the revised estimate for 2007-08. This is mainly due to increased cash flow requirement for a non-recurrent item. In addition, one post will be created in 2008-09.

Head 78 — INTELLECTUAL PROPERTY DEPARTMENT

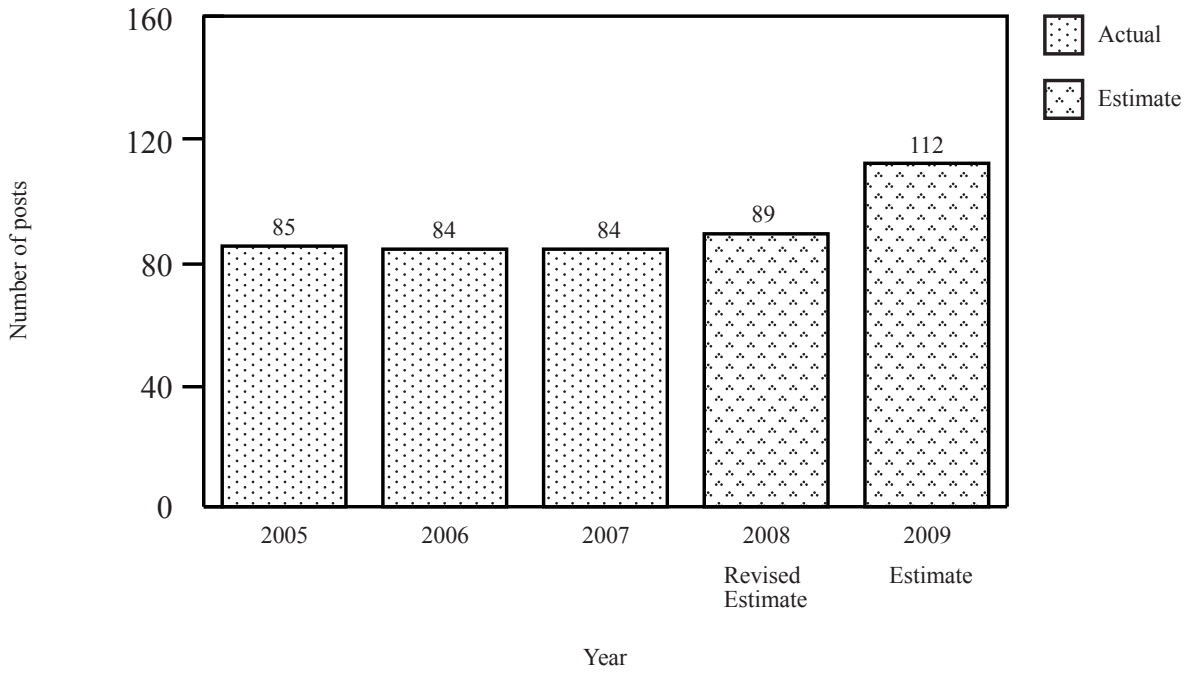
*Allocation of provision
to programmes
(2008-09)*



*Staff by programme
(as at 31 March 2009)*



*Changes in the size of the establishment
(as at 31 March)*



Head 78 — INTELLECTUAL PROPERTY DEPARTMENT

Sub-head (Code)	Actual expenditure 2006-07	Approved estimate 2007-08	Revised estimate 2007-08	Estimate 2008-09	
	\$'000	\$'000	\$'000	\$'000	
Operating Account					
Recurrent					
000	Operational expenses	69,170	86,295	83,974	91,836
	Total, Recurrent.....	<u>69,170</u>	<u>86,295</u>	<u>83,974</u>	<u>91,836</u>
Non-Recurrent					
700	General non-recurrent	10,414	656	—	912
	Total, Non-Recurrent.....	<u>10,414</u>	<u>656</u>	<u>—</u>	<u>912</u>
	Total, Operating Account	79,584	86,951	83,974	92,748
<hr/>					
	Total Expenditure	<u>79,584</u>	<u>86,951</u>	<u>83,974</u>	<u>92,748</u>

Head 78 — INTELLECTUAL PROPERTY DEPARTMENT

Details of Expenditure by Subhead

The estimate of the amount required in 2008–09 for the salaries and expenses of the Intellectual Property Department is \$92,748,000. This represents an increase of \$8,774,000 over the revised estimate for 2007–08 and of \$13,164,000 over actual expenditure in 2006–07.

Operating Account

Recurrent

2 Provision of \$91,836,000 under *Subhead 000 Operational expenses* is for the salaries, allowances and other operating expenses of the Intellectual Property Department. The increase of \$7,862,000 (9.4%) over the revised estimate for 2007–08 is mainly due to the increased salary provision for filling existing vacancies and the creation of 23 new posts, partly offset by reduced expenditure in general departmental expenses.

3 The establishment as at 31 March 2008 will be 89 permanent posts. It is expected that 23 posts will be created in 2008–09 to meet the Department's operational needs. Subject to certain conditions, the controlling officer may under delegated power create or delete non-directorate posts during 2008–09, but the notional annual mid-point salary value of all such posts must not exceed \$50,030,000.

4 An analysis of the financial provision under *Subhead 000 Operational expenses* is as follows:

	2006–07 (Actual) (\$'000)	2007–08 (Original) (\$'000)	2007–08 (Revised) (\$'000)	2008–09 (Estimate) (\$'000)
Personal Emoluments				
- Salaries	42,938	48,212	47,745	57,852
- Allowances	1,248	2,036	2,346	1,879
Personnel Related Expenses				
- Mandatory Provident Fund contribution	87	182	149	380
- Civil Service Provident Fund contribution	—	111	120	372
Departmental Expenses				
- General departmental expenses	16,057	27,754	25,614	23,353
Other Charges				
- Publicity and educational programmes.....	8,840	8,000	8,000	8,000
	69,170	86,295	83,974	91,836

Head 78 — INTELLECTUAL PROPERTY DEPARTMENT

Commitments

Sub-head (Code)	Item (Code)	Ambit	Approved commitment	Accumulated expenditure to 31.3.2007	Revised estimated expenditure for 2007–08	Balance
			\$'000	\$'000	\$'000	\$'000
<i>Operating Account</i>						
700		<i>General non-recurrent</i>				
	008	Implementation of an international registration system under Madrid Protocol.....	1,824	—	—	1,824
		Total	1,824	—	—	1,824