

Head 78 — INTELLECTUAL PROPERTY DEPARTMENT

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

Estimate 2009–10 **\$98.3m**

Establishment ceiling 2009–10 (notional annual mid-point salary value) representing an estimated 105 non-directorate posts as at 31 March 2009 rising by three posts to 108 posts as at 31 March 2010 **\$54.7m**

In addition, there will be an estimated seven directorate posts as at 31 March 2009 and as at 31 March 2010.

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

	2007–08 (Actual)	2008–09 (Original)	2008–09 (Revised)	2009–10 (Estimate)
Financial provision (\$m)	62.9	70.9	69.2 (–2.4%)	73.9 (+6.8%)
				(or +4.2% on 2008–09 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 2008, the proportions of electronic filings for trademark, patent and design applications were 59 per cent, 47 per cent and 45 per cent respectively.

Head 78 — INTELLECTUAL PROPERTY DEPARTMENT

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

Targets

	Target	2007 (Actual)	2008 (Actual)	2009 (Plan)
<i>For trademarks under Trade Marks Ordinance, Cap. 559</i>				
providing first response for trademark applications within two months (%)φ.....	96	99	99	96
providing second response for trademark applications within three months (%)Ω	80	89	85	80
delivering hearing decisions on trademarks within six months (%).....	90	100	99	90
<i>For patents</i>				
processing standard patent applications within ten days (%)§	85	90	85	85
processing short-term patent applications within ten days (%)§	85	90	86	85
<i>For designs</i>				
processing design applications within ten days (%)§	99	99	100	99

φ Calculated from the date of the Trade Marks Registry's notice confirming receipt of all the required information for substantive examination.

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

	2007 (Actual)	2008 (Actual)	2009 (Estimate)
<i>For trademarks under Trade Marks Ordinance, Cap. 559</i>			
applications received	23 529	24 230	24 000
applications successfully registered.....	19 395	18 408	18 200
first response issued for trademark applications.....	22 626	22 619	24 000
second response issued for trademark applications	3 394	3 580	3 540
hearing decisions issued	131	170	105[^]
<i>For patents</i>			
applications for standard patents received.....	13 766	13 662	13 500
applications for short-term patents received.....	599	488	480
standard patents granted	4 839	4 001‡	4 300
short-term patents granted	492	435‡	470
<i>For designs</i>			
applications received	3 254	3 078	3 200
designs registered	5 804	5 153‡	5 400
<i>For copyright licensing bodies</i>			
applications received	0	1	2
applications successfully registered.....	0	0	2
applications for renewal of registration	3	3	3

[^] The decrease is due to high turn-over of legal staff in late 2008 while replacements are being recruited.

‡ The decline was due to the decrease in the number of applications received and the fact that some applications did not meet the requirements for grant of patent or registration of design at the time of filing.

Matters Requiring Special Attention in 2009–10

6 The migration rate of e-filing has increased steadily over the past few years. During 2009–10, the Department will explore means to facilitate intellectual property (IP) right owners to make use of the Government's one-stop online services in the protection of IP rights.

Head 78 — INTELLECTUAL PROPERTY DEPARTMENT

Programme (2): Protection of Intellectual Property

	2007–08 (Actual)	2008–09 (Original)	2008–09 (Revised)	2009–10 (Estimate)
Financial provision (\$m)	19.9	21.8	22.6 (+3.7%)	24.4 (+8.0%)
				(or +11.9% on 2008–09 Original)

Aim

7 The aims are to promote awareness of IP rights, to enhance the reputation of Hong Kong in the protection of IP rights in order to attract investment, and to protect existing and new types of IP 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 IP 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 IP in Hong Kong;
- providing civil legal advice on IP 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 IP rights standards; attending and participating in international seminars, conferences, meetings, etc. on IP rights matters;
- promoting IP services provided by Hong Kong professionals, facilitating the understanding of IP 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 IP 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 IP assets.

9 The Department has continued its territory-wide campaigns such as the “No Fakes Pledge” Scheme and “I Pledge” Campaign to encourage pride in the selling of genuine goods among Hong Kong retailers, tourists and local consumers. In 2008, eight trade associations with 598 retail merchants, covering over 4 740 outlets in Hong Kong, took part in the Scheme.

10 The Department continued its primary and secondary school visits programme into the twelfth year with the aim of promoting respect for IP rights in the younger generation. In 2008, this programme covered 84 schools and 16 244 students. To promote awareness of IP rights among students and young people, the Department also collaborated with the IP right holders in the publishing industry to organise a Stamp Design Competition with the theme of “Respect for IP Rights for the World IP Day”. The award presentation ceremony will be held in April 2009.

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 IP rights and the application of intellectual asset management in business. As a further step to intensify its efforts to assist businesses to achieve IP compliance, the Department and the Business Software Alliance (BSA), in collaboration with other organisations in the business community, launched a “Software Asset Management (SAM) Consultancy Programme” from October 2007 to July 2008 to help business operators better manage their software assets and guard against business end-user piracy. Under the Programme, SAM contractors provided free on-site professional consultancy service to participating companies and offered advice on best practices in SAM, including the use of software audit tools to prevent software piracy. A total of over 50 000 organisations were approached through various promotional channels, including telemarketing, direct mailing, leaflets, newspapers, magazines and seminars. About 650 organisations participated in the Programme.

12 Before the directors’/partners’ criminal liability in relation to the possession offence was brought into operation on 11 July 2008 under the Copyright (Amendment) Ordinance 2007, the Department collaborated with trade associations and other government departments to launch promotional and civic education activities to the most closely-affected stakeholders. The activities include Announcements of Public Interests, leaflets, advertising in newspapers and business magazines and organising seminars.

Head 78 — INTELLECTUAL PROPERTY DEPARTMENT

13 The key performance measures in respect of IP protection are:

Indicators

	2007 (Actual)	2008 (Actual)	2009 (Estimate)
visits, seminars, conferences and workshops	124	88 Δ	80
speeches and presentations	51	55	55
media interviews, briefings and press conferences.....	19	25	20
school visits	84	71	75

Δ As most of the Department's major customers have become e-filers (and communication between the Department and e-filers is mainly by way of telephone and email), the number of visits organised in 2008 was reduced.

Matters Requiring Special Attention in 2009–10

14 During 2009–10, the Department will:

- continue to 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 detailed legislative proposals arising from the review of copyright protection 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 IP Rights of the WTO and other follow up matters;
- continue to play a proactive role in the APEC and the Trade-Related Aspects of IP Rights Council of the WTO, and through such institutions to provide appropriate technical assistance to developing and least-developed economies overseas;
- assist WIPO and the Central People's Government in organising a regional symposium on IP in Hong Kong;
- support the business community in strengthening their IP protection in the Mainland through the Guangdong/Hong Kong Expert Group on the Protection of IP Rights;
- disseminate information through the Internet on the IP systems in the Mainland, Hong Kong Special Administrative Region and Macao Special Administrative Region;
- enhance co-operation with the Mainland in trademark matters through the Trademark Working Coordination Group;
- strengthen the out-reaching effort to young people on IP 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 IP 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	2007–08 (Actual) (\$m)	2008–09 (Original) (\$m)	2008–09 (Revised) (\$m)	2009–10 (Estimate) (\$m)
(1) Statutory Functions	62.9	70.9	69.2	73.9
(2) Protection of Intellectual Property ...	19.9	21.8	22.6	24.4
	82.8	92.7	91.8 (–1.0%)	98.3 (+7.1%)
				(or +6.0% on 2008–09 Original)

Analysis of Financial and Staffing Provision

Programme (1)

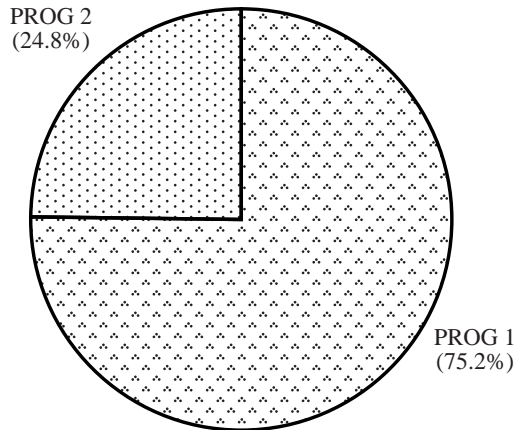
Provision for 2009–10 is \$4.7 million (6.8%) higher than the revised estimate for 2008–09. This is mainly due to increased salary provision for the creation of three new posts to meet operational needs and the full-year effect for filling vacancies, partly offset by the reduced requirements in general departmental expenses.

Programme (2)

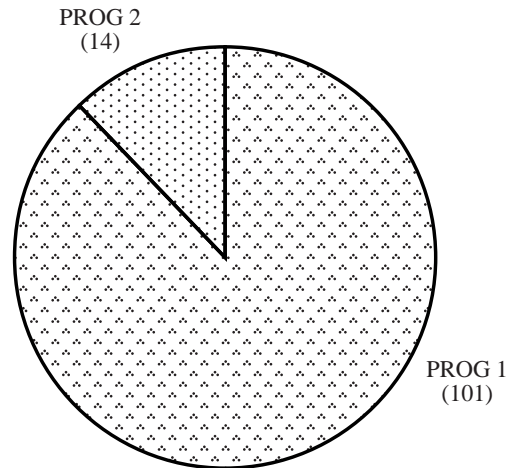
Provision for 2009–10 is \$1.8 million (8.0%) higher than the revised estimate for 2008–09. This is mainly due to the full-year effect for filling vacancies, partly offset by the reduced requirements in general departmental expenses.

Head 78 — INTELLECTUAL PROPERTY DEPARTMENT

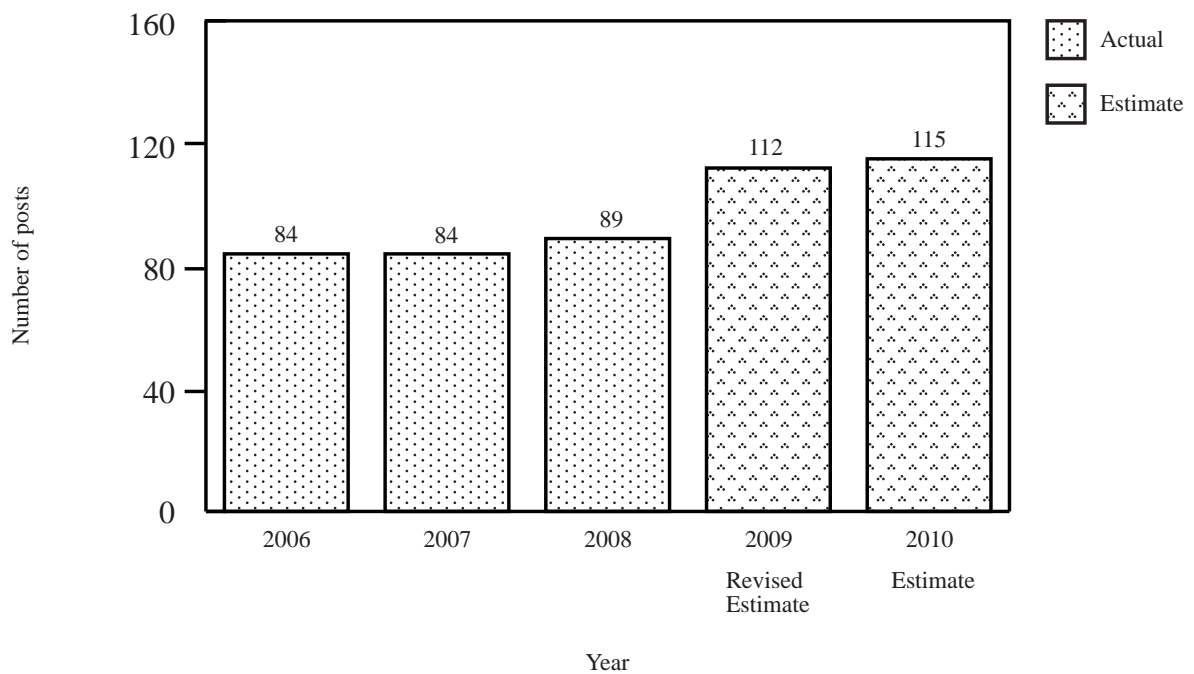
*Allocation of provision
to programmes
(2009-10)*



*Staff by programme
(as at 31 March 2010)*



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



Head 78 — INTELLECTUAL PROPERTY DEPARTMENT

Sub-head (Code)	Actual expenditure 2007-08	Approved estimate 2008-09	Revised estimate 2008-09	Estimate 2009-10
	\$'000	\$'000	\$'000	\$'000
Operating Account				
Recurrent				
000 Operational expenses	82,823	91,836	91,836	98,261
Total, Recurrent	82,823	91,836	91,836	98,261
Non-Recurrent				
General non-recurrent	—	912	—	—
Total, Non-Recurrent	—	912	—	—
Total, Operating Account	82,823	92,748	91,836	98,261
<hr/>				
Total Expenditure	82,823	92,748	91,836	98,261

Head 78 — INTELLECTUAL PROPERTY DEPARTMENT

Details of Expenditure by Subhead

The estimate of the amount required in 2009–10 for the salaries and expenses of the Intellectual Property Department is \$98,261,000. This represents an increase of \$6,425,000 over the revised estimate for 2008–09 and of \$15,438,000 over actual expenditure in 2007–08.

Operating Account

Recurrent

2 Provision of \$98,261,000 under *Subhead 000 Operational expenses* is for the salaries, allowances and other operating expenses of the Intellectual Property Department.

3 The establishment as at 31 March 2009 will be 112 permanent posts. It is expected that three permanent posts will be created in 2009–10 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 2009–10, but the notional annual mid-point salary value of all such posts must not exceed \$54,689,000.

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

	2007–08 (Actual) (\$'000)	2008–09 (Original) (\$'000)	2008–09 (Revised) (\$'000)	2009–10 (Estimate) (\$'000)
Personal Emoluments				
- Salaries	47,772	57,852	56,930	64,608
- Allowances	2,140	1,879	1,680	1,405
- Job-related allowances	—	—	1	1
Personnel Related Expenses				
- Mandatory Provident Fund contribution	250	380	227	363
- Civil Service Provident Fund contribution	—	372	424	483
Departmental Expenses				
- General departmental expenses	24,895	23,353	24,574	23,401
Other Charges				
- Publicity and educational programmes	7,766	8,000	8,000	8,000
	<u>82,823</u>	<u>91,836</u>	<u>91,836</u>	<u>98,261</u>