

## Head 78 — INTELLECTUAL PROPERTY DEPARTMENT

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

**Estimate 2010–11** ..... **\$96.1m**

**Establishment ceiling 2010–11** (notional annual mid-point salary value) representing an estimated 107 non-directorate posts as at 31 March 2010 and as at 31 March 2011 ..... **\$53.0m**

In addition, there will be an estimated seven directorate posts as at 31 March 2010 and as at 31 March 2011.

### Controlling Officer's Report

#### Programmes

<b>Programme (1) Statutory Functions</b>	These programmes contribute to Policy Area 6: Commerce and Industry (Secretary for Commerce and Economic Development).
<b>Programme (2) Protection of Intellectual Property</b>	

#### Detail

##### Programme (1): Statutory Functions

	2008–09 (Actual)	2009–10 (Original)	2009–10 (Revised)	<b>2010–11 (Estimate)</b>
Financial provision (\$m)	69.1	73.9	72.2 (–2.3%)	<b>73.5</b> (+1.8%)
				(or –0.5% on 2009–10 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, owners of registered rights or their agents 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 2009, the proportions of electronic filings for trademark, patent and design applications were 55 per cent, 51 per cent and 48 per cent respectively.

## Head 78 — INTELLECTUAL PROPERTY DEPARTMENT

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

### *Targets*

	Target	2008 (Actual)	2009 (Actual)	<b>2010 (Plan)</b>
<i>For trademarks under Trade Marks Ordinance, Cap. 559</i>				
providing first response for trademark applications within two months (%)φ.....	97Δ	99	99	<b>97</b>
providing second response for trademark applications within three months (%)Ω.....	80	85	85	<b>80</b>
delivering hearing decisions on trademarks within six months (%).....	95^	99	99	<b>95</b>
<i>For patents</i>				
processing standard patent applications within ten days (%)§.....	85	85	88	<b>85</b>
processing short-term patent applications within ten days (%)§.....	85	86	88	<b>85</b>
<i>For designs</i>				
processing design applications within ten days (%)§.....	99	100	100	<b>99</b>

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

Δ The target will be revised from 96 per cent to 97 per cent as from 2010.

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

^ The target will be revised from 90 per cent to 95 per cent as from 2010.

§ Calculated from the date of application.

### *Indicators*

	2008 (Actual)	2009 (Actual)	<b>2010 (Estimate)</b>
<i>For trademarks under Trade Marks Ordinance, Cap. 559</i>			
applications received.....	24 230	24 754	<b>24 000</b>
applications successfully registered.....	18 408	22 500	<b>19 200</b>
first response issued for trademark applications.....	22 619	25 012	<b>24 000</b>
second response issued for trademark applications.....	3 580	4 005	<b>4 100</b>
hearing decisions issued.....	170	138¶	<b>135</b>
<i>For patents</i>			
applications for standard patents received.....	13 662	11 857	<b>11 600</b>
applications for short-term patents received.....	488	551	<b>560</b>
standard patents granted.....	4 001	5 625	<b>5 010</b>
short-term patents granted.....	435	474	<b>460</b>
<i>For designs</i>			
applications received.....	3 078	2 234	<b>2 200</b>
designs registered.....	5 153	3 850‡	<b>3 800</b>
<i>For copyright licensing bodies</i>			
applications received.....	1	1	<b>1</b>
applications successfully registered.....	0	1	<b>1</b>
applications for renewal of registration.....	3	3	<b>4</b>

¶ The decrease was due to high turn-over of legal staff in late 2008. Most of the replacements started service in mid 2009.

‡ The decline was due to the decrease in the number of applications received.

### *Matters Requiring Special Attention in 2010–11*

6 During 2010–11, the Department will explore means to improve user friendliness of its e-services to facilitate intellectual property (IP) right owners to manage and protect their IP rights.

## Head 78 — INTELLECTUAL PROPERTY DEPARTMENT

### Programme (2): Protection of Intellectual Property

	2008–09 (Actual)	2009–10 (Original)	2009–10 (Revised)	2010–11 (Estimate)
Financial provision (\$m)	22.1	24.4	23.5 (–3.7%)	22.6 (–3.8%)
				(or –7.4% on 2009–10 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 Hong Kong enterprises operating in this region, and helping SMEs build their capacity for intellectual capital management (ICM), 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 and managing 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 2009, eight trade associations with 649 retail merchants, covering over 4 928 outlets in Hong Kong, took part in the Scheme.

10 The Department continued its primary and secondary school visits programme into the thirteenth year with the aim of promoting respect for IP rights in the younger generation. In 2009, this programme covered 74 schools and 22 241 students. To promote awareness of IP rights among students and young people, the Department also launched IP Tutor Programme in School and Interactive Drama Programme in secondary schools. The drama performance has been extended to primary schools in November 2009. In addition, the Department collaborated with the Customs and Excise Department and the movie industry in organising a Card Holder Design Competition and IP Rights T-shirt Competition respectively.

11 SMEs have remained one of the prime targets of our promotion and education efforts. A new series of Announcements of Public Interests consisting of four episodes with duration of 30 seconds each were produced to disseminate IP rights messages to enterprises in Hong Kong, especially SMEs. Through seminars and exhibitions organised by the Department itself or in collaboration with others, the Department has also helped SMEs understand the importance of protecting their IP rights and the application of ICM in business. The Department has initiated a pilot ICM Consultancy Programme running from March 2009 to January 2010 which deploys consultants to local SMEs to provide consultancy service on their premises. The programme is co-organised by the Trade and Industry Department and the Innovation and Technology Commission and is supported by various trade associations. It is a free consultancy service aiming to help enterprises, especially SMEs, to apply ICM tools to maximise their business potentials. As at 31 December 2009, there were 315 organisations joining the programme.

12 Following the enactment of the Copyright (Amendment) Ordinance 2009, the Department will collaborate with trade associations and other government departments to launch promotional and civic education activities targeted at the most closely-affected stakeholders, before the business end-user copying and distribution offence is brought into operation in 2010. The activities include organising seminars and advertising in newspapers and business magazines.

## Head 78 — INTELLECTUAL PROPERTY DEPARTMENT

13 The WIPO Regional Symposium on Management of Intellectual Capital, Intellectual Assets and IP was held in Hong Kong on 29 and 30 October 2009. The symposium was co-organised by the WIPO and the Central People's Government and hosted by the Department. It was attended by 200 participants, including government officials, academics, representatives from IP-related organisations and SMEs in the Asia-Pacific region as well as senior representatives from the IP offices of 18 countries.

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

### *Indicators*

	2008 (Actual)	2009 (Actual)	2010 (Estimate)
visits, seminars, conferences and workshops.....	88	80	80
speeches and presentations.....	55	59	55
media interviews, briefings and press conferences.....	25	22	20
school visits.....	71	74	80

### *Matters Requiring Special Attention in 2010–11*

15 During 2010–11, the Department will:

- provide policy, legal and technical advice to the Commerce and Economic Development Bureau in relation to the drafting of detailed legislative proposals arising from the review of copyright protection in the digital environment; and in relation to the drafting and enactment of subsidiary legislation under the Copyright Ordinance, in particular including a new set of Copyright Tribunal Rules;
- 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;
- 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-reach 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 ICM as a tool for business development in compliance with IP legislation;
- continue collaboration with stakeholders to strengthen and publicise the “No Fakes Pledge” Scheme to promote the sale of genuine products; and
- extend the ICM Consultancy Programme for one year to provide free ICM consultancy service to local SMEs.

## Head 78 — INTELLECTUAL PROPERTY DEPARTMENT

---

### ANALYSIS OF FINANCIAL PROVISION

Programme	2008–09 (Actual) (\$m)	2009–10 (Original) (\$m)	2009–10 (Revised) (\$m)	2010–11 (Estimate) (\$m)
(1) Statutory Functions .....	69.1	73.9	72.2	73.5
(2) Protection of Intellectual Property ...	22.1	24.4	23.5	22.6
	91.2	98.3	95.7 (–2.6%)	96.1 (+0.4%)
				(or –2.2% on 2009–10 Original)

#### Analysis of Financial and Staffing Provision

##### Programme (1)

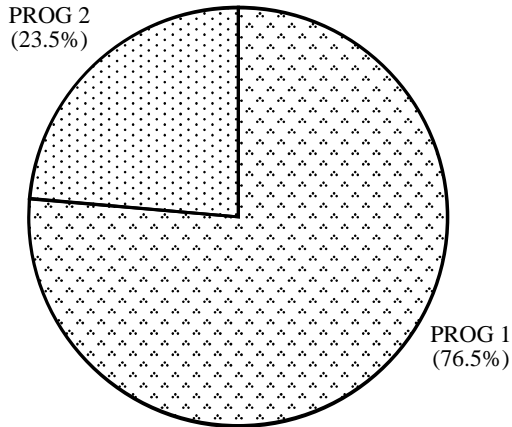
Provision for 2010–11 is \$1.3 million (1.8%) higher than the revised estimate for 2009–10. This is mainly due to the full-year effect for filling vacancies, partly offset by the reduced requirements in general departmental expenses and reduced salary provision arising from staff changes and the 2009 pay adjustment.

##### Programme (2)

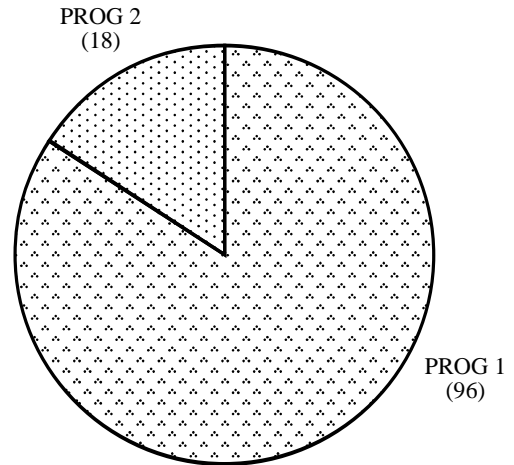
Provision for 2010–11 is \$0.9 million (3.8%) lower than the revised estimate for 2009–10. This is mainly due to the reduced requirements in operating expenses, partly offset by the increased salary provision arising from the full-year effect for filling vacancies.

Head 78 — INTELLECTUAL PROPERTY DEPARTMENT

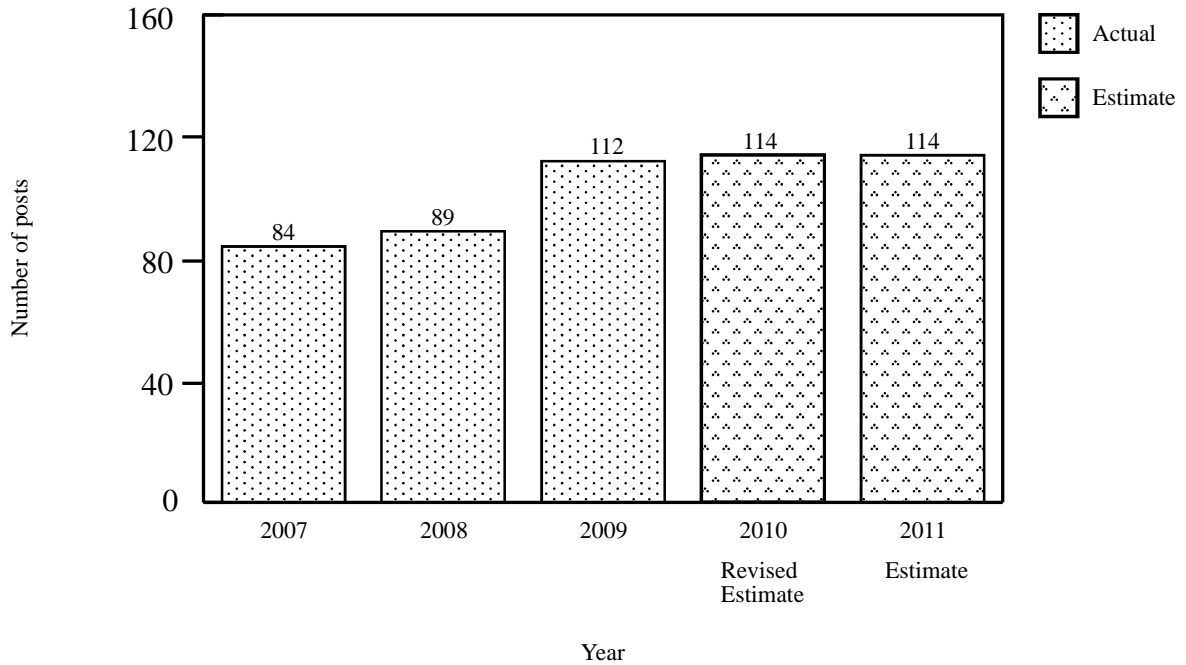
*Allocation of provision  
to programmes  
(2010-11)*



*Staff by programme  
(as at 31 March 2011)*



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



**Head 78 — INTELLECTUAL PROPERTY DEPARTMENT**

---

Sub-head (Code)	Actual expenditure 2008-09	Approved estimate 2009-10	Revised estimate 2009-10	<b>Estimate 2010-11</b>	
	\$'000	\$'000	\$'000	<b>\$'000</b>	
<b>Operating Account</b>					
Recurrent					
000	Operational expenses.....	91,199	98,261	95,652	<b>96,086</b>
	Total, Recurrent.....	<u>91,199</u>	<u>98,261</u>	<u>95,652</u>	<b><u>96,086</u></b>
	Total, Operating Account.....	91,199	98,261	95,652	<b>96,086</b>
<hr/>					
	Total Expenditure.....	<u>91,199</u>	<u>98,261</u>	<u>95,652</u>	<b><u>96,086</u></b>

## Head 78 — INTELLECTUAL PROPERTY DEPARTMENT

### Details of Expenditure by Subhead

The estimate of the amount required in 2010–11 for the salaries and expenses of the Intellectual Property Department is \$96,086,000. This represents an increase of \$434,000 over the revised estimate for 2009–10 and of \$4,887,000 over actual expenditure in 2008–09.

#### *Operating Account*

#### Recurrent

**2** Provision of \$96,086,000 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 2010 will be 114 permanent posts. No change in establishment is expected in 2010–11. Subject to certain conditions, the controlling officer may under delegated power create or delete non-directorate posts during 2010–11, but the notional annual mid-point salary value of all such posts must not exceed \$52,993,000.

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

	2008–09 (Actual) (\$'000)	2009–10 (Original) (\$'000)	2009–10 (Revised) (\$'000)	2010–11 (Estimate) (\$'000)
Personal Emoluments				
- Salaries .....	55,883	64,608	60,219	<b>62,888</b>
- Allowances .....	1,776	1,405	1,007	<b>1,002</b>
- Job-related allowances .....	1	1	1	<b>1</b>
Personnel Related Expenses				
- Mandatory Provident Fund contribution .....	210	363	288	<b>338</b>
- Civil Service Provident Fund contribution .....	396	483	393	<b>351</b>
Departmental Expenses				
- General departmental expenses .....	24,975	23,401	24,285	<b>22,646</b>
Other Charges				
- Publicity and educational programmes ....	7,958	8,000	9,459	<b>8,860</b>
	91,199	98,261	95,652	<b>96,086</b>