

**THE INTERNATIONAL TRADEMARK ASSOCIATION
COMMENTS ON
THE PROPOSED APPLICATION OF
THE MADRID PROTOCOL
TO
THE HONG KONG SPECIAL ADMINISTRATIVE REGION**

February 2015

Introduction

The International Trademark Association (INTA) is pleased to provide comments on the Consultation Paper issued by the Intellectual Property Department of the Commerce and Economic Development Bureau of the Hong Kong Special Administrative Region ("Hong Kong") regarding the proposed application of the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks ("the Madrid Protocol" or "the Protocol") to Hong Kong.

INTA is a not-for-profit membership association of more than 6,800 trademark owners and professional firms from more than 190 countries. The Association was founded in 1878 and is dedicated to supporting trademarks and related intellectual property in order to protect consumers and promote fair and effective commerce. INTA members share common interests in the protection of trademarks and the development of trademark law, and they rely on INTA to represent and advocate for those interests with national governments and international organizations. INTA's diverse membership includes multinational corporations and other business enterprises of all sizes, intellectual property and general practice law firms, trademark agent firms, service firms, trademark consultants, and academic institutions.

INTA consistently supports accession to the Madrid Protocol by jurisdictions that are not yet party to it and stands ready to extend its advice and assistance in the process of accession to national authorities so requesting. These comments were developed by the Madrid System Subcommittee of INTA's Trademark Office Practices Committee. Further information about INTA is available at www.inta.org.

Comments on Issues for Consultation

INTA welcomes the proposed application of the Madrid Protocol to Hong Kong and has the following comments in support of this development.

The Association fully shares the views expressed in Chapter 3 of the Consultation Paper on the benefits that Hong Kong could derive from such application, in terms of facilitating local businesses (in particular small and medium-size entities) to reach out to the world market; of enhancing Hong Kong's attractiveness as a place of business; of promoting Hong Kong as an IP trading hub; and of reinforcing its international image. It is noteworthy in that respect that most of the main trading partners of Hong Kong, both in Asia and in other regions of the world, are party to the Madrid Protocol or are taking steps to join it.

Chapter 3 of the Consultation paper also rightly addresses the perceived concerns of local trademark agents and INTA shares the view that, given the position of Hong Kong as an international place of business, any initial downturn in domestic filing-related activity would soon be compensated by an increase of new business generated by the Protocol.

Regarding the practical arrangements for the proposed application of the Protocol to Hong Kong (Chapter 4 of the Consultation Paper), INTA notes that Article 153 of the Basic Law provides for the possibility for the Central People's Government of China to decide to apply the Protocol to Hong Kong. It is further understood that the implementation details of such application remain to be worked out with the Central People's Government and the International Bureau of WIPO. For its part, INTA would have no difficulty with the processing of international applications and of territorial extensions (or "designations") by the Trademark Registry of Hong Kong as outlined in paragraph 4.3 of the Consultation Paper.

Regarding the various steps for implementation addressed in paragraphs 4.5 to 4.7 of the Consultation Paper, INTA has no particular comment to make, except that the Association would be most willing to provide, in due course, its advice on the drafting of the necessary amendments to be made to the Trade Mark Ordinance and Trade Mark Rules, and assistance for the training of staff of the Trademark Registry or for the information of future users of the Protocol in Hong Kong, if the Intellectual Property Department so wishes.

Please send any questions relating to this submission to Seth Hays, Chief Representative, China, at shays@inta.org.