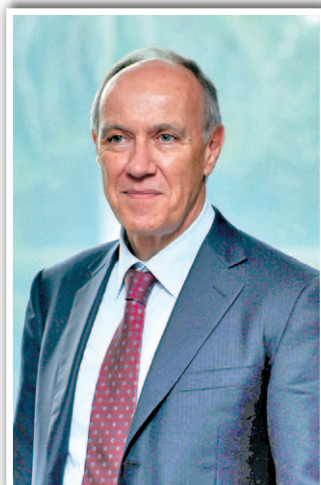




WORLD INTELLECTUAL PROPERTY DAY : 26 April, 2015 – “Get up, Stand Up. For Music.”



Intellectual Property Department
The Government of the Hong Kong
Special Administrative Region



Mr. Francis Gurry
*Director General,
World Intellectual Property
Organization*

Photo: Dhillon Publications

Music is part of an extraordinary revolution that is taking place around us, a revolution that is fundamentally changing the way creative works are produced, distributed and consumed.

Thanks to digital technology and the Internet, we now have access to more music than ever

before. The Internet has created a global marketplace and global stage for music. That is a wonderful thing for music lovers all over the world.

We need to ensure that we do not lose sight of creators and performers in the new digital economy. Is their role given sufficient value in these new systems? This is an essential question. It is essential for a vibrant culture that creators, composers, songwriters and performers are able to enjoy a decent economic existence through deriving economic value from their music. Without them, we don't have music.

Enormous artistic, personal, social and economic effort goes into the creation and the performance of music. We must find a way of ensuring its sustainability in the economy. My message for World Intellectual Property Day is – do not take music for granted; value it.

Today is a day to “get up, stand up, for music” – to ensure that our musicians get a fair deal, and that we value their creativity and their unique contribution to our lives.

Mr. Gregory So
Secretary for Commerce and Economic Development



For many of us, music has been part of our lives since the very moments we were born. From the lullabies gently hummed by our loving parents, the school anthem sung at our graduation ceremony, the wedding songs played on our big day, to the first birthday wish we chant to our children, music marks our life events and forms an indelible part of our fond memories. Music also entertains us every day when we play songs at home and during commute, attend a concert, go to the karaoke and watch a movie.

In addition to social, cultural and emotional importance, music also makes considerable contributions to the economy – think about the revenues generated and employment provided by the music and related creative industries such as movies and gaming. As we enjoy music, we must not forget the efforts from its creators – the singers, composers, lyricists and producers. We should respect the intellectual property (IP) rights embodied in musical works to ensure that creators receive fair rewards for their efforts.

In Hong Kong, we have put in place a robust legal regime to protect and champion IP rights. Specific to copyright which subsists in music, our law provides for both civil and criminal sanctions against infringement, underpinned by an effective judicial system and vigorous enforcement efforts. Promotional campaigns are regularly launched to educate the public, especially the youth, about the importance of respecting IP rights.

And we would not rest on laurels in view of rapid technological and overseas developments. A legislative exercise is underway to update our copyright regime in the digital environment. One of the key proposals is the introduction of a new exclusive technology-neutral communication right so that copyright owners would be in a better position to combat online infringement. To safeguard freedom

of expression, we have also proposed a number of new copyright exceptions for users to access copyright works at liberty under appropriate circumstances. Striking a fair balance between copyright protection and reasonable use of copyright works, the legislative package will enhance Hong Kong's competitiveness as a premier IP trading hub and creative capital in the region. We will press for its early passage and consider a new round of update soon after.

Indeed, IP is the “game-changer” in a knowledge-based economy. The Government set up in 2013 the Working Group on IP Trading (the Working Group) to advise on the overall strategy to promote Hong Kong as a premier IP trading hub in the region, and identify possible policies and measures in support. The Working Group released a report in March 2015 with 28 recommended measures under four strategic areas. We will –

- (i) enhance the IP protection regime;
- (ii) support IP creation and exploitation;
- (iii) foster IP intermediary services and manpower capacity; and
- (iv) pursue promotion, education and external collaboration.

The Government is working in full swing with the public sector, professional bodies, industry players and all other stakeholders to implement the recommended measures.

People's love and passion for music has not changed over time, but we have seen a sea change in the technology of how it is stored, played, shared and traded. Technological advancements have presented to the music and other creative industries both challenges and opportunities. Let's join hands and rise to the challenges and make Hong Kong an even better destination for musicians and IP traders alike!

Safeguarding the key to the music industry: originality

Established in 1967 in Hong Kong, the International Federation of the Phonographic Industry (Hong Kong Group) Limited (IFPI (Hong Kong Group)) covers the majority of record companies that create music copyrights and/or import music products for exploitation under license in Hong Kong.

“Originality is the key to any copyright industry. Throughout the history of recorded music, it has always been the original talents and trendsetting music that drive consumer interest, hardware and now, innovations in communication,” highlights **Ricky Fung, CEO of IFPI (Hong Kong Group)**.

He points out that a well-established intellectual property (IP) protection system ensures that original creative works enjoy all descriptions of copyright protection, free from theft, so that they may flourish and contribute to the economy.

“New media of all sorts that license works from the owners are “partners” of the music industry. They nurture innovation and facilitate market reach in the digital environment. As licensees, they too face unfair competition from unauthorized music-sharing on the net,” observes Fung. He notes that the global IP system has yet to evolve sufficiently to stem illegal practices in the music industry.

In the era of advanced technology, Fung believes that one developing global trend is to introduce legal tools to block sites primarily designed for infringing contents. Advanced technology can also help in the development of sophisticated tools to curb abuses.

Collective efforts to improve the environment for digital music

Hong Kong Recording Industry Alliance (HKRIA) is a not-for-profit copyright management organization that handles the copyrights of members who are record companies from Hong Kong and overseas regarding the broadcast, public performance and relevant usage of sound recordings (recorded music) and music videos.

“The music industry is continuing its investment in the transformation into the digital world, with record companies delivering music through digital channels,” says **Grace Chui, General Counsel of HKRIA**. “The global shift of music consumption to smartphones and tablet devices has brought about a rapid growth of music streaming and music subscription services.”

Chui also points out that there are licensed music services for digital music across the world. The list of licensed digital music services available in Hong Kong and world-wide can be found in the IFPI Digital Music Report 2015 at HKRIA's website (<http://www.hkria.com/en/public-interest.aspx>). And that this new phase of innovation brings artists and their music to a global audience.

On suggestions to improve the environment for the development of digital music, Chui highlights some examples including: raising the awareness of the intellectual property right among SMEs for music in the commercial use; working with Hong Kong Customs & Excise Department to tackle online piracy; as well as working with online stores to remove infringing apps.

Global digital music business continues to surge

As the voice of the recording industry worldwide, the International Federation of the Phonographic Industry (IFPI) represents the interests of 1,300 record companies across the globe.

“The global digital music business grew by 6.9 per cent to US\$6.9 billion in 2014. Streaming services are leading the increase and subscription streams revenue now represents some 23% of the global digital music market,” underlines **Ang Kwee Tiang, Regional Director of IFPI Asian Regional Office**.

When comparing the differences of new media development between Hong Kong and other Asian countries, Ang notes South Korea as one of the world's largest subscription markets and is going strong in terms of digital revenue growth. “This is partly attributable to the far-sighted legislative measures introduced by the South Korean government such as graduated response system and website blocking, which helped drive consumers from pirated to legal music services.”

“It is with this assurance of adequate and enforceable copyright protection that copyright owners will continue to invest in music creation which will naturally result in the further development of the music industry,” adds Ang.

Cooperation with online stores to combat online music piracy

The Composers and Authors Society of Hong Kong (CASH) is a copyright society in Hong Kong established in 1977 to administer and enforce collectively the rights of composers and authors of musical works subsisting under the copyright law of Hong Kong.

“Like other industries, the music industry is economics driven. For its development, IP protection on the one hand fends off piracy, and on the other hand, ensures music creators' efforts are properly remunerated in a business world. Only with such protection will music creators' passion be upheld, thereby propelling the music industry forward,” points out **Geoffrey Lau, Head of Media Licensing of CASH**.

Lau also highlights the growing maturity of online music nowadays. “In appealing to people who are used to pirated music, some legitimate online music streaming services have rolled out free versions with a view to converting free users to pay users in time.”

Lau adds that cooperation with the app stores to remove apps which use unauthorized music can be also an effective means to combat piracy.

Nurturing the music industry through protecting intellectual property rights

As the universal language of mankind, music is a powerful source of inspiration which transcends territories and cultures with a primal melodic connection.

Many enduring melodies that touch our heart are derived from the originality and unstinting efforts of creative workers in the music industry worldwide, including singers, songwriters, producers and more. Nevertheless, in this era of fast-emerging technologies, there is increasing challenge to the protection of copyright of these original music creations.

Original musical works are protected by our copyright regime. The Government has taken the initiative to enhance the IP protection regime by updating the copyright law, as **Ms Ada Leung, Director of Intellectual Property** points out. The latest development is the introduction of Copyright (Amendment) Bill 2014 into the Legislative Council last year which further strengthens our copyright regime. The amended legislation will be conducive to the development of the music industry.

Apart from the copyright amendment, Intellectual Property Department (IPD) has been working closely with various stakeholders in strengthening the IP regime and shaping the IP landscape in HK. New initiatives are in the pipeline, including promoting Hong Kong as a premier IP Trading Hub in the region. By joining hands with the IP Committee of the Law Society of Hong Kong, IPD has launched an IP Consultation Service Scheme. “This program aims to assist SMEs to systematically identify and understand the IP they possess; to communicate the IP value to business partners and financiers; and to adopt appropriate IP management and commercialization strategies for driving business growth,” explains Leung.

In addition, an IP Manager Scheme will be launched by IPD to foster IP manpower capacity. It will provide training to managerial staff of SMEs and encourage them to appoint in-house IP Managers, who will be responsible for overseeing the compliance, management, exploitation and commercialization of IP assets.



Ongoing promotion and education efforts are also pursued by the Government to raise public awareness on IP. “We strive to engage the general public, especially the younger generation to support original music. In fact, various activities are organized, including the annual “I Pledge” Live Band Festival which aims to support local original music, promote respect for intellectual property and boost Hong Kong's music culture,” says Leung.

“No Fakes Pledge” Shop Search

A mobile application tool developed by IPD to facilitate tourists and consumers searching of shop information of all participating retail merchants of the “No Fakes Pledge” Scheme. For details, please visit www.nofakes.hk.



As Intellectual Property (IP) trading thrives, the associated system requires reformed intermediary practices to support the structure. IP Arbitration, regarded as an indispensable component of IP trading, is a consensual and confidential procedure in which a dispute is submitted to one or three arbitrators who make a binding decision on the dispute.

Acknowledging the significance of providing highly specialized IP intermediary services in Hong Kong, two sub-groups were formed under the IP Trading Working Group to facilitate dedicated discussions on

IP Arbitration – supporting IP Trading through alternative dispute resolution

the specialized subjects of IP valuation, and IP arbitration and mediation respectively.

“For international IP disputes, it is more appropriate to resolve through arbitration as these disputes grow in numbers and complexity,” states the **Hon. Andrew Liao, Member of Executive Council and Vice Chairman of the Working Group on IP Trading** which has already submitted its report and recommendations to the Government.

Regarding the advantages of IP Arbitration, Liao underlines the confidential nature of the procedure. By keeping proceedings confidential, parties may avoid potential adverse publicity.

He also notes finality as another advantage of this procedure, given that arbitral awards are final. He also adds that arbitral awards are enforceable in over 150 contracting states to the New York Convention on the Recognition and Enforcement of

Foreign Arbitral Awards.

Furthermore, the parties involved can also enjoy the freedom to choose the governing law and to appoint arbitrators who are likely to be IP experts. “It is also their freedom to select the seat of the arbitration, thereby avoiding any home court advantage that one of the parties may enjoy in court-based litigation,” points out Liao.

Looking ahead, the seasoned specialist in IP believes that there are great opportunities for locals in IP trading, for young people in particular. “Development of IP trading would contribute to upgrading our economy, and creating jobs in various high-end business sectors and high value-added intermediary and professional services, such as IP agencies, IP matching services, IP due diligence, IP financing, IP insurance and IP valuation as well as consultancy and legal services,” says Liao.

He also notes that IP trading dovetails with the Government's efforts in fostering the creative industry, as well as in enhancing the local R&D capacity, technological development and facilitating technology transfer.

IP in Action

“I Pledge” Campaign

Over 30 local bands took part in the “I Pledge” Live Band Festival at the Hong Kong Culture Centre Piazza on 7 February 2015 to show a variety of band performance which attracted around 2,000 audiences.



Interactive Drama Programme

The drama was performed in 118 primary and secondary schools from October 2014 to March 2015.



Intellectual Property Department: www.ipd.gov.hk

Intellectual Property Trading: www.ip.gov.hk

World Intellectual Property Day:
<http://www.wipo.int/ip-outreach/en/ipday/>