



HONG KONG GROUP
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Our Ref: HJHW/G0846/00016

28 October 2009

Director of Intellectual Property
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By email

VICE PRESIDENT
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Dear Sirs

COPYRIGHT TRIBUNAL RULES

COUNCILLOR:
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I refer to Winnie Ng's email to Douglas Clark dated 27 October 2009 enquiring about the APAA submissions. As Secretary, I forwarded those submissions on 2 October 2009. However when I spoke to Peter Cheung last night, it appeared that our letter had not been received.

I therefore enclose a further copy, receipt of which kindly acknowledge.

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Yours sincerely

HENRY J H WHEARE
Secretary
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2 October 2009

Director of Intellectual Property
Intellectual Property Department
25/F Wu Chung House
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Wanchai
Hong Kong

By email

Dear Sirs

COPYRIGHT TRIBUNAL RULES

We refer to Winnie Ng's letter of 31 August 2009 inviting comments on the Department's Consultation Paper on the proposed Copyright Tribunal Rules. The APAA Copyright Committee has reviewed the Consultation Paper and agrees with the majority of the proposals for drafting the new rules.

With regard to the proposal at 4(b) of the paper that there be one standard procedure and form for all applications, given the different nature of issues to be determined by the Tribunal, we consider it will be difficult to draft one form that will minimise the complexity of applications.

The Copyright Tribunal hears applications relating to:

1. Licensing schemes
2. Licensing by Licensing Bodies
3. Determining awards for employees for use of his/her work outside reasonable contemplation
4. Obtaining the Tribunal's consent on behalf of owners of rights of reproduction of a performance whose identity cannot be ascertained.

While it is likely the facts and legal issues to be determined in 1 and 2 will be similar, in relation to 3 and 4, they are likely to be substantially different.

Using one standard form may in fact increase rather than decrease complexity. In particular, as the applicant under 3 is likely to be an employee, if the goal is to assist unrepresented parties one form specific to this type of application may be preferable.

We recommend that the rules do not specify forms to be used, but leave it to the discretion to the Tribunal to make provision for appropriate forms to be used based on their experience of handling cases.

We do not see a major issue with one standard procedure being adopted.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Henry J H Wheare', written in a cursive style.

HENRY J H WHEARE
Secretary
APAA Hong Kong Group

Enc.

cc: Ms Anne Choi
c/o Wilkinson & Grist