



澳門特別行政區政府
Governo da Região Administrativa Especial de Macau
個人資料保護辦公室
Gabinete para a Protecção de Dados Pessoais

UNOFFICIAL TRANSLATION

Authorization

No. 09/A/2012/GPDP

Subject: The Economic Services applied for data combination to provide the Customs Service the trademark information

The Economic Services (DSE) applies to the GPDP for an authorization for the combination of personal data, with the Macao Customs SA, aimed at the processing of trademark information.

According to information provided by the DSE, the data to be provided to the SA through combination shall include the name or the business name of the trademark applicant or the trademark rights owner, the address, nationality and industry type, name of lawyer commissioned by the trustee or name of the trustee, detailed information of the trademark (such as the trademark design, content of the product or servicet, and its status, etc.).

According to Article 4(1)(1) of Law 8/2005 (Personal Data Protection Act, or the PDPA), “personal data shall refer to any information related to an identified or identifiable natural person”. In the trademark information to be provided by the DSE to the SA through combination, only the information identifying the natural persons who are the trademark applicants, right owners and trustees shall be deemed as the personal data. Other information regarding those legal persons who are the trademark applicants, right owners (including the business names) as well as the detailed information of the trademark, which cannot be used to identify any natural persons, shall not be deemed as personal data. According to Article 3 idem, the processing of personal data shall be governed by the PDPA.

Based on the information from the DSE, the SA is allowed to access, in real time, the trademark information, through a leased line with specified software. In such a way, SA’s database can be updated with the latest information from the DSE, which falls into the scope personal data combination as defined by Article 4(1)(10) of the PDPA.

According to the DSE, one of the purposes of combination is to effectively implement the Legal Regime of Industrial Property and the Organization and Functions of the Custom Service. As a public authority supervising the intellectual property rights in Macao, the SA is responsible for the prevention, combating and suppressing the unlawful activities with regard intellectual property rights. Therefore, the combination of information on trademarks can facilitate the works of the SA.



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According to Articles 9 and 22 of the PDPA, unless the combination of personal data has been specified in the laws or organizational regulations, the controller responsible for the personal data processing, or the entity undertaking the joint processing, shall apply to the GPDP for an authorization.

After analyzing the information provided by the DSE, the GPDP finds that the DSE provides the trademark information to the SA through combination, therefore that the latter can effectively implement the Industrial Property Code and the Organization and Functions of the SA, as well as obtaining the updated information in a timely manner when discharging its duties and reducing the time and cost of administrative procedures. As such, this is in accordance with the efficiency principle of administrative procedures and meets the e-government policy of the MSAR Government. In addition, in regard the types of information for combination, whether the combination meets the purposes specified in laws and regulations and the legitimate interests of the controller responsible for the processing of personal data and the fact that the combination shall not discriminate or reduce of the rights, freedoms and safeguards of the data subjects, the current application meets the requirements of Article 9(2) of the PDPA.

To sum up, the DSE provides the trademark information to the SA through combination to assist the latter to prevent, combat and suppress the unlawful activities related to intellectual property rights. According to Articles 9 and 22(1)(3) of the PDPA, the GPDP hereby authorizes the DSE and the SA to process the related personal data through combination for the said purposes, by guaranteeing the safe processing of such data and without reducing the rights of the data subjects.

Chan Hoi Fan
Coordinator
27 April 2012