

## Summary of IPONZ Hearings Technical Focus Group

Date of Meeting: 2 July 2020

### Present:

#### IPONZ/MBIE Policy

Steffen Gazley; Stephanie Randle; Samantha Carr (and perhaps others)

### TFG members

In the room: Greg Arthur

On the telephone: Ian Finch; Kate Duckworth; Nick Holmes; Garry Williams; Andrew Brown; Sheana Wheeldon; Richard Watts; Kate McHaffie

Before commencing the meeting Steffen acknowledged Dan Winfield's passing and his contribution to the group.

Agenda Item	Comments
1. Hearings Office update	<p>Filing of new opposition and revocation cases has decreased.</p> <p>63 TM cases waiting to be heard.</p> <p>Handful of old patent cases – taking out those on public interest.</p> <p>12 – 13 months medium time to schedule hearing – IPONZ have target of four months - from when Office advises that matter in order for a hearing.</p> <p>Four hearings officers:</p> <ul style="list-style-type: none"><li>• Natasha Alley: Trade Marks, Designs, Geographic Indications;</li><li>• Wendy Aldred: Trade Marks, Patents;</li><li>• Nigel Robb: Trade Marks, Designs, Geographic Indications;</li><li>• Mark Luiten: Patents, Plant Variety Rights.</li></ul> <p>Hearings Officer availability is significantly higher than previously = 120 hours per week compared with previous 40-50 hours per week.</p> <p>IPONZ believe have enough capacity at this stage and the right number of Hearings Officers.</p> <p>IPONZ think number of cases to become in order for hearing in short term will slow down.</p> <p>Hearings proceeding by video and in-person – either option available.</p> <p>Procedural steps – processing in usual turnaround time.</p> <p>Automatic extensions of time for evidence – automatically pushed out by 3 months – until 31 July 2020.</p>

	<ul style="list-style-type: none"> <li>• Tikanga Māori guidelines for IPONZ hearings (Completed 2019)</li> <li>• Video conferencing for hearings (Completed 2019)</li> <li>• Appointment of new Assistant Commissioners (Completed March 2020)</li> <li>• Alternative dispute resolution promotion (Early 2020 <i>3<sup>rd</sup> quarter 2020</i>)</li> <li>• Letter template enhancements (Early-mid 2020 <i>3<sup>rd</sup> quarter 2020</i>)</li> <li>• Electronic documents at hearings (Early 2021 <i>4<sup>th</sup> quarter 2020</i>)</li> <li>• Automated hearings scheduler (May 2020 <i>Delayed</i>) – infrastructure update at MBIE needed</li> </ul>
<b>2. Electronic case files at Hearings</b>	<p>IPONZ is keen to move hearings away from being paper based.</p> <p>Steffen requested email feedback – what would like to see (or not)</p> <p>Greg Arthur – suggested that IPONZ look to court requirements for guidance but bear in mind that that incurs a bit of expense.</p> <p>Expect update at next TFG</p>
<b>3. Automatic extensions of time</b>	<p>In recognition of limitations due to COVID-19 IPONZ has been automatically extending deadlines for certain tasks, esp. evidence (apart from initial evidence in non-use proceedings),</p> <p>Greg Arthur – wouldn't want anything unnecessarily delay matters getting to a hearing.</p> <p>IPONZ created work around so that both parties notified of extension.</p> <p>Exceptional reasons would cover COVID-19. Elena asked if party could request extension on exceptional grounds first if faced with COVID limitations and then still have access to extension on reasonable grounds. Steffen said IPONZ would be flexible in the circumstances.</p> <p>IPONZ is considering whether to continue with automatic extension after 31 July. Email Steffen asap if any more feedback.</p> <p>IPONZ generally schedule the oldest case first but examination hearings / interlocutory matters may go earlier.</p> <p>There was significant displeasure from TFG members about ongoing delays in hearing dates. Garry Williams suggested IPONZ could run a short notice list to assist with scheduling. Sheana Wheeldon suggested that IPONZ could speed up setting down – email / phone proposing two dates and have short turn around</p>

<b>4. Practice Guidelines updates</b>	Security for Costs - new guidelines Any comments to SG within week GI security for costs – based on patents scale
<b>5. Hearing fees in multiple proceedings</b>	IPONZ is looking at whether can be more flexible and whether it might be fair that lesser fee paid.  IPONZ will put something together for the next TFG.
<b>6. Next meeting</b>	TBA - late October 2020