

Summary of IPONZ Hearings Technical Focus Group

Date of Meeting: 5 May 2021

Present from IPONZ: Steffen Gazley; Sam Carr; Cat O'Donnell; Julia Maclean; Meg Bradley; Monique Cardy; Tanya Carter;

TFG members in the room: Kate Duckworth; Sheana Wheeldon

TFG members online: Nick Holmes, Ian Finch; Andrew Brown; Marcus Caulfield; Thomas Huthwaite; Elena Szentivanyi

Apologies: Greg Arthur; Richard Watts, Clive Elliott, Garry Williams

Agenda Item	Summary
1. Review of previous meeting action points - Steffen Gazley	Offering one Hearing date but giving longer notice Trial of hearings at short notices List of scheduled hearings publically available - in progress - due by end June Including date of hearing in decisions - should be being done on more regular basis
2. IPONZ and Hearings Office update - Steffen Gazley	New Principal Case Officer - Cat O'Donnell Seeking approval to appoint a further TM Hearings Officer - hope to have someone in place by end June 2021 Temporary Patent Hearings Officer to do examination hearings until June 2021 - will review then Julia Maclean and Meg Bradley - appointed as new associate hearings officers Trial scheduling of short notice hearings - April - September 2021 In person hearings to be held at Pastoral House Enhancements - electronic hearing scheduler expected July 2021 Notifications when correspondence filed on case Timeframes for dealing with correspondence - 15 working days July - review of business objectives - still measure time to set down for hearing - looking at measures of proceeding from start to finish - look at new measure of targeted timeframe for whole process. Cases waiting a hearing - 50 trade marks / 20 patent cases - waiting for hearing to be scheduled or heard. Average time to schedule - still at 12 months - office target is 4 months About 1 in 4 hearings vacated at last minute - 9 vacated last minute Nov 20 - April 21 - four of which had to be rescheduled.
3. Short notice fixtures - Cat O'Donnell	Trial to Sept 21 Hope to be quite malleable but confined to some extent due to Regulations.

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4. IPONZ case management system enhancements - Steffen Gazley	<p>Electronic scheduler due July 2021. Not likely that parties can schedule themselves initially. Get system in place and improve functionality over time. Will be internal efficiencies.</p> <p>May set up demo between TFGs.</p>
5. Case management conference update - Steffen Gazley	<p>Paused for now following feedback. Look at this again later in the year once implemented electronic scheduler.</p> <p>No plan to roll out enhancements across all cases but are places where could be used more often to help cases along.</p>
6. Electronic bundles - Sam Carr	<p>Not necessary to be hyperlinked.</p> <p>Expect common bundle to be paginated and bookmarked.</p> <p>Beneficial for party to screen share during hearing.</p> <p>From 1 July - running electronic bundles only as long as AC comfortable. IPONZ will advise if require hard copy - should only be necessary if complex case.</p>
7. Visibility of documents for proceedings under the Patents Act 1953 and 2013 - Cat O'Donnell	<p>Default is that documents are private so only parties and IPONZ can see. Looking at fix to change default to public - subject to confidentiality.</p> <p>Don't propose to open up for 1953 Act cases. Slower process to open up closed proceedings under 2013 Act.</p> <p>Party can tag document as confidential when filing.</p>
8. Practice guidelines updates - Cat O'Donnell	<p><u>Confidential evidence</u></p> <p>If no agreement will automatically go to CMC - if straightforward HO can make ruling and if party wants to oppose then goes to interlocutory.</p> <p><u>Halts</u></p> <p>IPONZ proposed getting rid of one month given as next deadline at expiration of halt and instead that new deadline for the relevant task will align with the date the halt is specified to end. Members did not agree with this approach. Guideline will not be published in current form.</p> <p>General COVID extensions - available on not too onerous basis - need some brief reasons. Not tough criteria. Can file evidence unsworn and fix it later.</p> <p><u>Costs awards for multiple hearings</u></p> <p>Multiple proceedings and one decision - one cost award. IPAU has 20% uplift - to recognise administrative burden of filing multiple proceedings.</p> <p><u>Amendments during the course of a patent proceeding</u></p> <p>See guideline - Opponent can comment but not further engage with process. Any issues with acceptance of amendment can be dealt with at substantive hearing.</p>

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9. Other business	<p>Members raised about delays in issue of hearing decisions</p> <p>Steffen Gazley - looking at internal process to speed up issue of decision. Have noticed that complexity of decisions is high.</p> <p>Timeframe of 30 days a bit short - maybe 90 days better. Agreed that 6-9 months is too long. Will report back at next TFG if not before.</p>

Next meeting in October 2021 - date to be confirmed.