

Hearings Office TFG meeting 27 October 2022

Attendees:

IPONZ/MBIE: Steffen Gazley; Natasha Storey; Sam Carr; Craig Thompson; Becky White; Ruvini Rendle; George Wardle.

Profession: Kate Duckworth; Richard Watts; Jenni Rutter; Sheana Wheeldon; Thomas Huthwaite; Greg Arthur; Elena Szentiványi; Marcus Caulfield; Nick Holmes; Peter Ryan.

1. Welcome

Steffen introduced Becky White as Manager of IPONZ.

Craig Thompson appointed as principal case hearings officer / Kat O'Donnell back from maternity leave - will have full complement of case managers.

2. Review of Previous Meeting Action Points

Patent extensions - scope in current guidelines whether IPONZ will grant or not. The Applicant needs to give outline of steps taken to date in seeking extension.

It was suggested that IPONZ give the profession a heads up.

Electronic bundles - no problem with double sided printing / looking at technology - e.g. screen sharing

Form of evidence / witnessing - need to balance Hearings Office input in wanting evidence to be in proper form and timeliness and leaving to parties to deal with any issues

Unrepresented parties - Steffen does not believe that is preferential treatment.

3. IPONZ update

i) Hearings Office update

A copy of the data/update is attached.

Figures do not include non-defended TM revocations. IPONZ uses median rather than mean (average).

Discussion on what is point of having target for time to "closure" when so many variables (whether parties file evidence / extensions / halts etc.). Steffen noted that the Office will see if any increases in timelines and provides overview of proceedings timeframes do that users know timeframe involved

Members are invited to ask any questions arising and consider if any other data or information would be helpful to provide.

IPONZ to amend the "how you can be heard" guidelines to encourage junior counsel participating

IPONZ looking at removing temporary guidelines regarding filing of unsworn evidence during pandemic/COVID. These guidelines are not being used.

IPONZ likely allow one week extension to attend to formal requirement of swearing evidence if required. Applicant will need to explain why could not get signed in regulated timeframe.

ii) MBIE Policy Team Update

EU FTA concluded 1 July 2022. MFAT is working with EU counterparts to clean up (scrub) agreement - 13 GIs have been removed. Expect agreement signed mid-2023. EC needs to translate certified copy of agreement into all languages of EU and go through legal verification process. Expect agreement to be in force sometime in 2024.

MBIE is preparing GI discussion paper - hoping to get Cabinet approval to publish by end November. Concentrate on current wine GIs and whether basis for new regime for foodstuffs and other beverages. Also looking at differences in offences and remedies - under the Wine Act misuse of GI is breach of FTA - will look at including in GI Act and look at enforcement options available under TMA. EU requires Administrative enforcement of GIs.

Looking at doing minimum necessary but opportunity to look at effectiveness of regime.

UK FTA - Bill in the House - Foreign Affairs, Defence and Trade Select Committee reported back last week.

Expect Govt to push through so enforce next year - only one IP requirement.

PVR Bill - in committee of the whole - hope will be through Parliament asap so can implement.

iii) Alternative Dispute Resolution

MOU with WIPO to promote ADR in IPONZ proceedings. IPONZ will work with WIPO ADR service to publish information on IPONZ website. At this stage IPONZ is taking a passive role and will look at what else can do to promote.

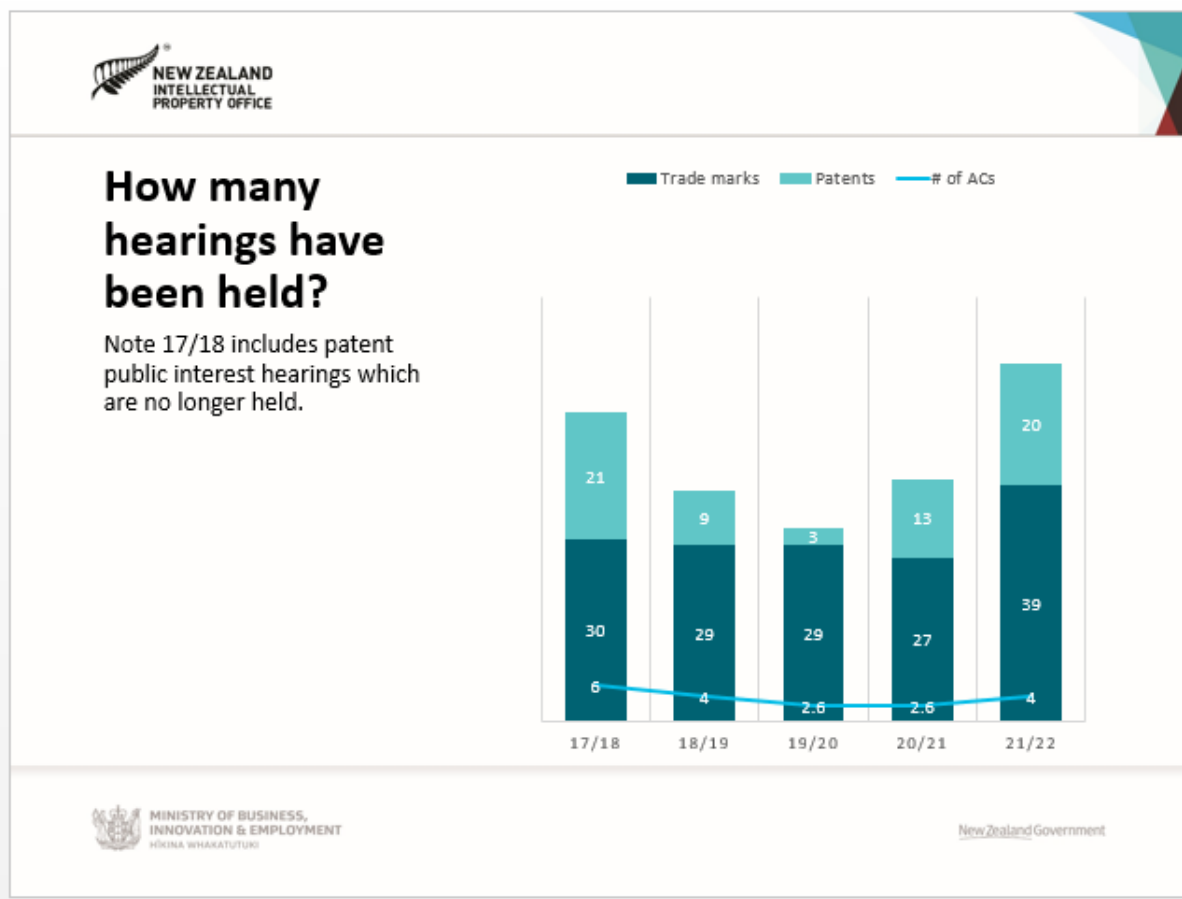
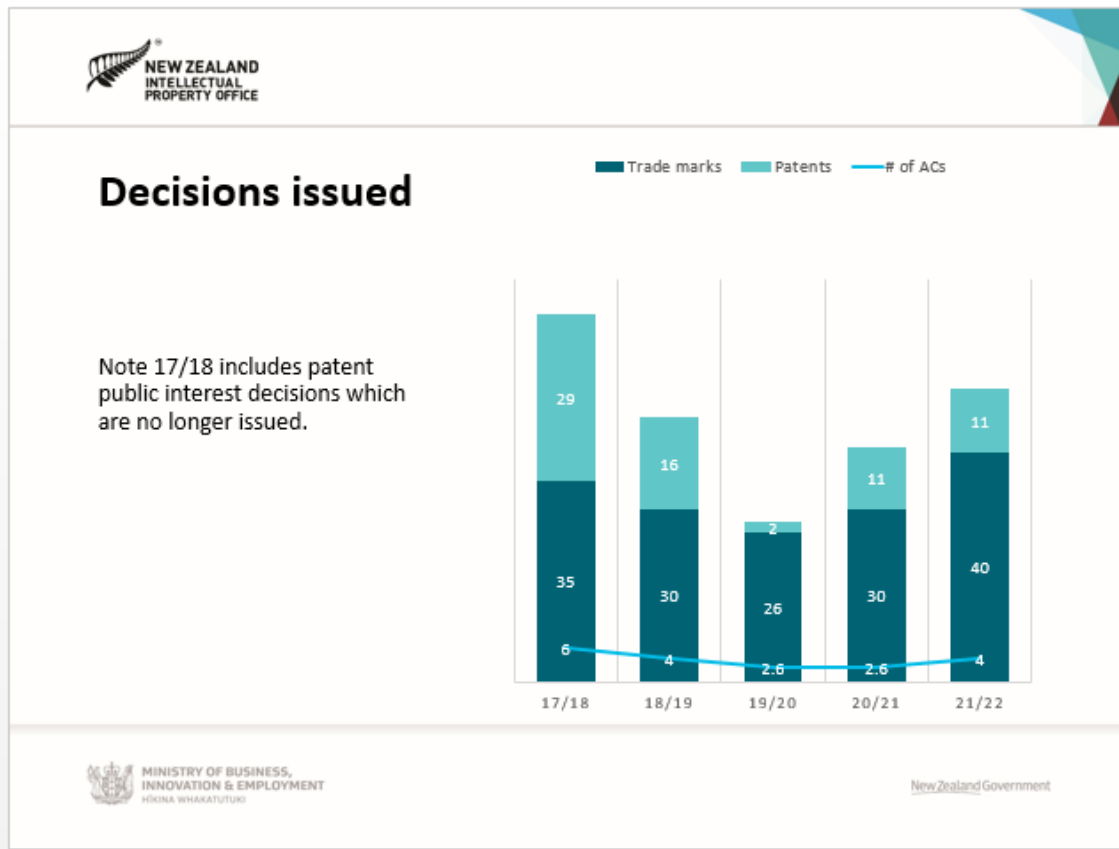
iv) Patent Proceedings Document Visibility

The Commissioner needs to balance obligations under Patents and Copyright Acts - looking at making some documents publically available, for example Notice of Opposition and correspondence.

If document includes copyright material the IPONZ website will list that document exists but not publish it. A third party can log in and request document and it will be made available. Not the Office's intention that be OIA process, the document will be made available immediately. Requires some system work - think is good way to open up access to documents.

4. Other business

- IPONZ is seeing increased number of late requests in lead up to hearing e.g. amending documents, cross examination and a request to retain hearing date. This will not always be possible and it will be likely that hearing will have to be postponed. Hearings Office will monitor to see if ongoing issue
- Query about process to have in person hearing. This is possible, just tell IPONZ that you want to be face to face. There are no special rules or requirements
- Dates for next 2023 TFG meeting - April and October. Steffen's preference that stick with 2 meetings per year - if particular urgency can convene on ad hoc basis.

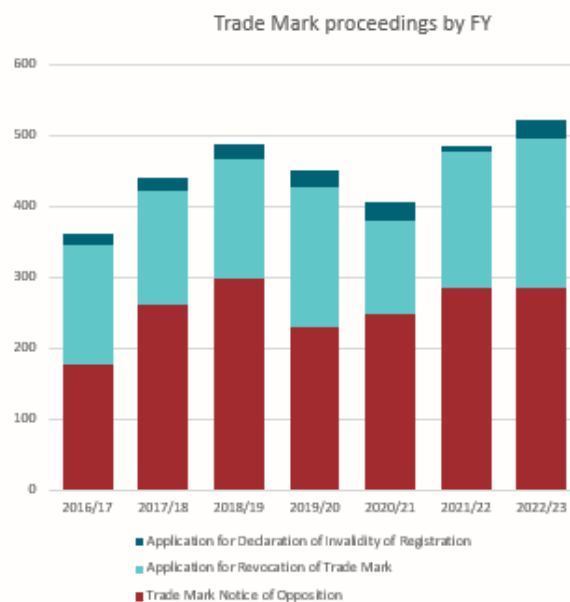


Timeliness

Measure	Last period's performance (June 2022)	Target
Median time for a hearing to be scheduled	6 months	4 months
Median time between proceeding filing and closing	33.5 months	30 months
Median time to issue a decision	37 days	60 days

Trade Mark proceedings volumes trends

22/23 values are projected figures.



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