

IPAU TMDCG 28 March 2023

Chair's update - Kelly Sims

Thank you to members for ongoing constructive dialogue

IP report to issue on 26 April - will be discussed at IPTA conference.

TM filings dropped 11%

New forms for TM oppositions launched / looking at what can improve for extensions without regulatory reform.

TTIPAB review - awaiting Ministerial sign off.

Non-resident attorneys as address for service - will be seeking more input this year.

Classification of new types of goods/services - working with WIPO and other offices - upcoming roundtable re NFTs. The Madrid goods and services manager will be basis for IPAU pick list so there is alignment.

10,800 unexamined TMs - currently 12% down - compared with down 20% forecast

85% examination reports in 13 weeks / 2.4 business days for headstart applications. IRDAUS are prioritised IRDAUs

IPAU do regular customer experience surveys / Q2 85% TM customers satisfied with content of reports and 80% satisfaction with explanation in reports

IPAU - location agnostic for TM examiners - don't have to move to Canberra for 12 months for training / very few jobs now have Canberra or Melbourne location. Examiners are located across all states and territories.

TM examiner have target of 100 - 120 apps per month.

Design filings on target

EU asked for protection of 56 wine EU GI terms under wines agreement - consultation process under way - <https://haveyoursay.agriculture.gov.au/public-objections-process>

Minutes

Approved.

Action items

Attorney secondment programme kicking off this year.

Policy updates

Design Policy update - Lisa Bailey

Reform - expand scope of designs: partial designs / virtual designs / incremental improvements in design.

Next steps - public consultation - awaiting Ministerial approval / will circulate in confidence paper about incremental designs for some early feedback.

Incremental designs - pre and post registration - submit preliminary application that can be changed / post registration - link designs so not prior publication. Covers evolution / improvement of design.

Virtual - non-physical products - broad approach - trying to future proof - cautious how works with CR

Partial designs - signature part of product e.g. heel of shoe treat same way as whole products

Hague Agreement - UK brought UK/AU FTA into force - all reasonable steps to join - no update on this process.

Indigenous Knowledge and Free Trade Policy - Edwina Lewis

Work plan - see [website](#)

IPAU has issued report on standalone legislation - in general positive benefits for indigenous people - likely to see some progress in 2023.

FTA - Edwina Lewis

Signed with UK - no changes to AU's IP law

Only obligation relates to designs - All reasonable efforts to accede to Hague

EU/AU FTA - working towards concluding in mid-2023 - 14th round of negotiations in Feb - agreed to TM/CR/border measures. AU not agreed to any GIs - will only agree at conclusion if deal good enough. EU pressure on GIs. If agree to any GIs likely that will have to change law.

Wine GIs

Public objection process - 56 EU GIs - EU/AU wine agreement - submission period open to 21st April

EU pushing for GI for Prosecco. AU position is that it is a grape variety so should be free for AU producers to use.

Oppositions and Hearings Review update - Heath Wilson

New structured request Statement of Grounds and Particulars (SGP) form - expect that customers will be able to file SGP that will meet requirements without having to fix it up.

B2B customers using APIs can still use PDF form but plan to change to structured SGP

Any drafts exists in account for 21 days (standard period for holding drafts) but have a month to file the SGP after the NIO. IPAU looking at system to be able to extend timeframe.

Notice of Intention to Defend structured form - rolled out

SGP - backlog in processing - will have better idea in couple of months.

Extensions of time - any changes will require regulatory reform - IPAU is looking at practices e.g. exceptional circumstances.

Update Evidence quality workshop - Blake Knowles

Assessment of evidence by examiners. Under review - hope to have completed review by mid-May and send out for consultation.

Next TM quality workshop likely in July. Blake suggested HCU / comparing retail services with goods and closely related goods/services under s 44

Blake asked if there was any interest in design quality workshop.

Updated Manual re letters of consent - ordinarily correspondence should go via address for service.

Sequencing of oppositions and removal actions

Refer to [Energy Drinks](#) (Mothersky/Motherland) decision - see paras 173 - 178

System not pick up that multiple related proceedings so incumbent on parties to notify the Office of parallel proceedings so that can be heard together.

High Court decision - Self Care IP Holdings Pty Ltd v Allegan Australia Pty Ltd [2023] - Blake Knowles

Manual updated - reputation not relevant to section 120 - contrary to previous decisions / directly analogous to s 44 - manual updated - see section 26.6.5

Woolworths Metro no longer relevant.

Other interesting issues coming out of the decision - use as a trade mark - IPAU is looking into this. Will look at decision from all angles.

Other business

Terms of Reference 2023 update

NZIPA - record change of name - New Zealand Intellectual Property Attorneys Inc.

Updated version endorsed.

Next meeting

Late Oct / early Nov - likely to be in person meeting Canberra or Melbourne.

Conference date conflicts?

INTA

Paula Adamson and Kelly Sims going.