

Trade Mark Hearings

Case Management

Purpose

Regulation 26

The Commissioner may convene a case management conference for the purpose of securing the just, speedy, and inexpensive determination of a proceeding.

Following the case management conference, the Commissioner may give any directions that are consistent with the Act and Regulations, including directions to:

- deal with evidential issues;
- require parties to file better or further particulars in their pleadings;
- seek confirmation of which grounds are being pursued or the issues still in dispute;
- resolve procedural issues;
- specify the steps that must be taken to prepare the proceeding for a hearing;
- fix the date by which a step in the proceeding must be taken;
- direct how the hearing is to be conducted - i.e. exchange of submissions in advance of the hearing;
- deal with how confidential evidence is to be treated;
- require parties to file copies of documents;
- co-ordinate or consolidate co-pending proceedings; and
- set expectations and outline consequences of non-compliance with directions.

Timing of case management

The Commissioner may convene a case management conference at any stage during the proceeding.

However, the Commissioner will usually only convene a case management conference if it appears that the proceeding has stalled, for example, where a party is being obstructive or difficult, or where there are procedural or other matters that need to be resolved before the proceeding can progress further. The Commissioner will also convene a case management conference if there is an opportunity to streamline the proceeding and/or minimise costs and delays for the parties.

The Commissioner must give the parties at least 10 working days' notice of the case management conference

How case management is run

The parties may attend the case management conference in person, via video link from another MBIE site, or telephone conference.

Case management is a preparatory step, and as such no formal submissions or evidence is required.

However, should the Commissioner require information from the parties prior to the case management conference, the Commissioner will outline the requirements when scheduling the case management conference. The parties must provide the information requested **5 working days** prior to the conference.

It is expected that counsel appearing at a case management conference will have instructions/authority to make any necessary agreements and decisions as required by the Assistant Commissioner at the case management conference.

Commissioner's directions

Regulation 27

All parties to a proceeding must comply with the directions given by the Commissioner at a case management conference.

Failure to comply with the Commissioner's case management directions will invoke the process under regulation 27, and may result in the non-complying party being unable to take any further part in the proceeding.
