

Hearings Office Technical Focus Group (TFG) Meeting Minutes

Date/Time	Thursday 27 October 10.30am
Location	Ministry of Business, Innovation & Employment 15 Stout Street, Wellington Room G.17
Teleconference/ Video conference details	Click here to join the meeting
Apologies	

Participants

MBIE / Intellectual Property Office of New Zealand ("IPONZ")	TFG Members
Steffen Gazley, Hearings Manager George Wardle, Senior Policy Advisor Craig Tolson, Principal Hearings Case Officer Samantha Carr, Senior Hearings Case Officer Ruvini Rendle, Assistant Commissioner Becky White, National Manager IPONZ Natasha Storey, Team Coordinator (minutes)	Kate Duckworth, Kate Duckworth Intellectual Property/NZLS Marcus Caufield, FB Rice Nick Holmes, Davies Thomas Huthwaite, Baldwins Peter Ryan, IPTA Elena Szentivanyi, Henry Hughes Sheana Wheeldon, Quay Chambers Jenni Ruter, Dentons Richard Watts, Simpson Grierson

Agenda

Time	Topic	Speaker
10.30am	Welcome	Steffen
	<ul style="list-style-type: none"> Opening welcome from Steffen Formal introduction to Becky White, National Manager IPONZ 	
10.35am	Review of Previous Meeting Action Points	Steffen
Action		Status

Hearings Office to provide scheduling and decision data at the next TFG.		Action completed. Data presentation circulated 17 October 2022.
Review the current published guidelines on patent extensions of time, with a view to raise the threshold of justification needed to obtain such extensions.		IPONZ conclude the current published guidelines communicate the expectation of reasonable justification when applying for a patent extension. IPONZ notes there is scope for the office to evaluate what is “reasonable justification”. IPONZ notes it is helpful for parties to show evidence of steps already taken to meet the original deadline.
Continue work on making patent proceedings documents open for public inspection.		Please see agenda.
Encourage use of electronic bundles; review current electronic document requirements for any changes needed to ensure ACs receive high-quality electronic documents. Where printing is necessary in the interim, allow double-sided printing.		Query from IPONZ of members regarding which technology is useful for Hearings, e.g., Zoom, screen sharing. IPONZ note that the Assistant Commissioner may still request a paper bundle in larger evidence cases.
Check the amended proposals to the Confidential Evidence guidelines satisfies AC’s feedback; publish the amended guidelines.		Action completed. Guidelines published online. Link to the Evidence section of the IPONZ website here .
Amend the Evidence Information Sheet to provide flexibility for cases with exceptional circumstances, before adopting initiative.		Still in progress. To be discussed at a future TFG.
Consider how best to manage unrepresented litigants to address the perception of preferential treatment.		Action closed. No evidence of preferential treatment.
10.40am	IPONZ update	Steffen
<p>Discussion regarding the recruitment & figures circulated 17 October 2022</p> <ul style="list-style-type: none"> Ongoing concern from members regarding the time taken to issue a decision. Feedback that the median 37-day time-frame is not reflective of member experience. IPONZ appreciated there can be some quite wide variability in issuing times. The Hearings Office confirmed that only substantive decisions were included in the statistics. Request from members for more detailed information, to provide a clearer picture of average time-frames (for both scheduling and decision issuing). Steffen noted that plans are in place to clear older cases. 		

- Action on IPONZ to provide this information for the next Technical Focus Group meeting or prior.

10:45am

MBIE Policy Team update

George Wardle

EUFTA negotiations concluded 1 July 2022. Ministry of Foreign Affairs and Trade are currently working on a revised version, expected to be signed mid-2023. This version includes 13 less European GIs. Longer time-frame for signing due to translation. One IP amendment, in relation to the Copyright Act and playing sounds in public.

IP Laws Amendments Bill – no progress on introduction of the Bill is expected until perhaps late 2023.

GI discussion paper to be release late November, connected to implementing GI obligations which came out of the EUFTA. The MBIE Policy Team are gathering information around the current GIs (Wine and Spirits) Registration Act, in preparation for recommending to Ministers about whether the registration should be extended to foodstuffs and other beverages. The discussion paper will take a deep dive on GIs enforcement (civil and administrative).

PVR Bill – implementation of new regime still waiting on House time to progress. *Postscript:* The Bill was enacted on 18 November. Entry into force in early 2023 – date still to be advised. Steffen noted some changes in the PVR space will impact the Hearings Office.

11:00am

Junior Counsel Welcome

Steffen Gazley

Minor updates regarding “how you can be heard”. Action on IPONZ to circulate to members prior to publication on the IPONZ website.

11:05am

Unsworn Evidence

Samantha Carr

IPONZ proposal to remove special guidelines introduced to accommodate the difficulties of getting evidence sworn during the pandemic/COVID-19 lockdowns, and now longer applies to the current state of play.

Discussion amongst members concluded future requests could be taken into account under genuine or exceptional circumstance, at the discretion of the Commissioner. Agreed that extensions are to be addressed under the standard extension protocol.

Action on IPONZ to complete formality step of removing unsworn evidence from the IPONZ website.

11:10am

Alternative Dispute Resolution

Steffen Gazley

The WIPO memorandum has been signed with the objective of encouraging alternative dispute resolution. The first step is for IPONZ to work with WIPO Arbitration and Mediation Center to publish material on the IPONZ website.

IPONZ are keen to contribute to increasing the awareness of alternate dispute resolution, and actively provide it as an option to users. Action on IPONZ to provide updated guidelines with members once finalised. IPONZ is happy to receive feedback from members.

11:15am	Patent Proceedings Document Visibility	Steffen Gazley
<p>IPONZ has a proposed system update to allow Proceeding documents to be visible in Patent proceedings.</p> <p>Process and update must ensure Commissioner balances obligations under both the Patents Act and Copyright Act and would require a system upgrade. The Commissioner is unlikely to make all material in patent proceedings viewable on the case management system, but the system could note the documents exist and allow users to request access. Requests to view documents would then be provided in a timely manner.</p> <p>Action on IPONZ to provide an update in the next TFG.</p>		
11.20am	Any Other Business	
<ul style="list-style-type: none"> • Confirm date of next meeting(s) for 2023. IPONZ preference for two Hearings Office Technical Focus Groups per year. Proposed dates for 2023 meetings are Thursday 4 May 10.30am-12:00pm and Thursday 19 October 10.30am-12:00pm. Additional TFG meetings could be held on an ad hoc basis to cover any emerging issues. • IPONZ noted with members a trend where requests were being filed close to the substantive Hearing, where the party seeking the indulgence still expected to retain the original Hearing date. Given the regulatory and/or procedural steps that IPONZ must follow, in almost all cases this requires the Hearing to be vacated. IPONZ wants to discourage parties from doing this and also ensure parties are aware of this when making late requests. This contributes to hearings delays. IPONZ is monitoring this, if issues persist, we will discuss in the next TFG. • Member raised question regarding requesting a face-to-face Hearing. IPONZ note that parties are able to request their preference, preferably by giving as much notice as possible. 		
11.30pm	Close of Meeting	

Summary of Action Points		
Owner	Action	Status
IPONZ	Action on IPONZ to provide substantive case by case Hearings data, to give a clearer picture of average time-frames for the next Technical Focus Group meeting or prior.	
Members	Members to answer IPONZ query regarding which technology they find useful for Hearings, e.g., Zoom, screen sharing.	
IPONZ	Action on IPONZ to circulate minor updates regarding “how you can be heard” to members prior to publication on the IPONZ website.	
IPONZ	Action on IPONZ to complete formality step of removing unsworn evidence as an option on the IPONZ website.	
IPONZ	Action on IPONZ to provide an update on Patent Proceeding Document Visibility in the next TFG.	
All	Action on IPONZ to provide updated guidelines on Alternative Dispute Resolution with members once finalised. Action on Members to share any contributions to future practice with IPONZ.	

