

## Hearings Office

### Technical Focus Group (“TFG”) Meeting Minutes

<b>Date/Time:</b>	Wednesday, 26 March 2025, 10:00 – 11:00am
<b>Location:</b>	Ministry of Business, Innovation & Employment 15 Stout Street, Wellington Central, Wellington 6011 Room G.17
<b>Video conference details:</b>	<a href="#">Click here to join the meeting</a>
<b>Apologies:</b>	

### Participants

MBIE / Intellectual Property Office of New Zealand (“IPONZ”)	TFG Members
<p>Lauren Hudson, Manager Business Delivery</p> <p>Craig Tolson, Principal Hearings Case Officer</p> <p>Emma Stares, Principal Hearings Case Officer</p> <p>George Wardle, Senior Policy Advisor</p> <p>Noni Trihardini, Team Coordinator (minutes)</p>	<p>Aparna Watal, Halfords / IPTA</p> <p>Elena Szentivanyi, Henry Hughes</p> <p>Gary Williams, Richmond Chambers</p> <p>Greg Arthur, Clifton Chambers / NZLS</p> <p>Jason Wach, James and Wells</p> <p>Jenni Rutter, Dentons</p> <p>Kate Duckworth, Kate Duckworth IP / NZLS</p> <p>Marcus Caulfield, FB Rice</p> <p>Nick Holmes, Davies Collison Cave</p> <p>Richard Watts, Simpson Grierson</p> <p>Sheana Wheeldon, Quay Chambers / NZLS</p> <p>Thomas Huthwaite, AJ Park</p> <p>Victoria Argyle, AJ Park / NZIPA</p>

### Agenda

Time	Topic	Speaker
10:00 am	Welcome	Lauren Hudson
Opening welcome from Lauren - karakia		

	<b>Review of Previous Meeting Action Points</b>	<b>Lauren Hudson</b>
<b>Action</b>		<b>Status</b>
IPONZ to notify members on Patent Proceeding Document Visibility update once concrete time frames are in place.		On hold
IPONZ to provide update on review of Hearings processes against Government Centre for Dispute Resolution model standards.		Halted – not a current priority
Members to send agenda items for the next TFG.		In progress
	<b>IPONZ update</b>	<b>Lauren Hudson / Emma Stares</b>

### Team structure

IPONZ underwent a change proposal in May 2024, which was finalized in June 2024. The Hearings team was significantly impacted.

The major changes are:

- Hearings team moved into the Business Delivery team, reporting to the “Manager Business Delivery” (Lauren Hudson – new in role). “Manager Hearings” role disestablished. Reason: both teams provide cross-functional support across IPONZ; combining them will enhance opportunity to streamline and collaborate on the delivery of services that work across all teams in the office
- New “Team Leader – Hearings” role (Tonja Flath – new in role).
- Five of Eight “Assistant Commissioner – Hearings Officer” roles disestablished. Three new “Hearings Officer” roles created. This resulted in a reduction in “decision makers” from 8 down to 6: 3 hearing trade marks cases, 2 hearing patents cases, and 1 hearing both.
- Other roles largely unchanged (Emma Stares – new in “Principal Hearings Case Officer” role).
- Currently completing a recruitment round for a new “Associate Hearings Case Officer”.

### Statistics

Hearings decisions are being issued in an average of 66 days, with 77% issued within the 3-month target.

The time between a case being ready for a hearing, and being allocated a hearing date, is on average 5.9 months, with 74% scheduled within the 6-month target. This is up from 28%, as reported at the May 2024 TFG.

The median total proceeding length is 16.5 months.

Over 95% of procedural correspondence meets quality control standards, including timeliness.

For trade marks proceedings, there has been a downward trend in the number of notices of opposition filed over the last two years, and a slight upward trend in the number of requests for revocations.

For patents proceedings, there have been a high number of notices of opposition filed already this year, with a few months left to go.

A total of 71 decisions were issued in 2024, one fewer than in 2023.

*Member asked if the decision statistic figures include unopposed cases, as past statistics excluded them due to shorter processing time. Member also questioned the total proceeding length of 16.5 months, which seems short if it does not include unopposed or abandoned cases.*

Response (provided post-meeting after discussion with the Business Systems Team):

The “**average time to issue a hearings decision**” statistic includes all decisions issued following a hearing, where the hearing was scheduled during the last MBIE fiscal year (from 1 July 2024 to the week of the TFG).

A “hearing” includes hearings on the papers, by written submissions, and/or by appearance.

That is:

- decisions on trade mark and patent oppositions (defended only, as undefended opposition proceedings are upheld without a hearing or issuance of a formal decision);
- decisions on applications for revocation of a trade mark on grounds of non-use (defended only, as decisions on undefended applications for revocation on grounds of non-use are made without a hearing);
- decisions on applications for revocation of a trade mark on grounds other than non-use (defended and undefended);
- decisions on applications for declaration of invalidity of a trade mark (defended and undefended);
- decisions on applications for revocation of a patent (defended and undefended);
- interlocutory decisions;
- examination decisions; and
- any other decision issued by an Assistant Commissioner or Hearings Office following a hearing.

The statistic does not include costs decisions, which do not follow a hearing.

The “**average time to schedule a hearing**” statistic includes any proceeding with a hearing date scheduled during the last MBIE fiscal year.

The statistic includes examination hearings, which have a hearing date scheduled very shortly after the proceeding is initiated.

The “**median total proceeding length**” statistic includes all proceedings for which a hearing date was scheduled (whether or not the hearing ultimately took place), and which had a closing date within the last MBIE fiscal year.

This does not include:

- any proceeding which was discontinued, from which the initiating party withdrew, or for which the related IP was withdrawn;
- undefended trade mark and patent oppositions; and
- undefended applications for revocation of a trade mark on grounds of non-use.

*Members requested more detailed/comprehensive statistics if possible.*

Response: IPONZ will circulate more detailed statistics post-meeting.

## Other

### Fee review

The IPONZ review of all fees is still underway. The fees were last reviewed in February 2020. No changes to hearings fees were proposed then. Some changes are expected to be in the scope for consultation in the current review. Documents are being prepared to get Cabinet approval to consult. Consultation will likely be mid-2025 with the changes coming into effect in 2026.

### Aurora project

An upgrade to the IPONZ IT platform is underway – aka the Aurora project. The current IT platform Ptolemy is aging and no longer as fit-for-purpose. Intended benefits of the Aurora project include an improved customer experience, technology that will simplify business processes, a projected increase in service and process efficiencies, improved technical support with fewer vendors, and technology that meets security and privacy standards, and aligns with the Government’s strategic direction to use cloud-based technology.

The first stage of the build (designs IP and common features) is underway with anticipated release in January 2026. Trade marks, patents, and PVR development and release will follow in a staggered fashion. The proceedings elements of trade marks and patents will be developed during the respective phases. Full completion is expected mid-2027. For at least 18 months the current and new systems will run in parallel – IPONZ is aiming to make this as painless as possible.

*Member questioned if the RealMe system is being replaced.*

Response (provided post-meeting after consultation with the Business Systems Manager): Not for this project. IPONZ will continue to support RealMe as the login service for NZ government services. IPONZ expects to benefit from the future development of the broader digital identity ecosystem for NZ lead by DIA. As mentioned, the project team will be in touch with IP firms directly to optimise and improve their user and organisational setups for their needs.

*Member inquired if the new platform will impact the APIs currently in use by firms.*

Response (provided post-meeting): Not confirmed at this stage. If there are updates required, the project team will provide users advance notice to transition.

### Decision cover pages

The team has developed new cover pages for trade marks and patents decisions. These were developed based on feedback from the profession given in an IPSANZ talk, and will be implemented from 1 April.

**MBIE Policy Team Update**

**George Wardle**

Minister of Commerce and Consumer Affairs, Hon Scott Simpson, was appointed last month. Indications so far are that he will carry on with the current IP policy work programme (discussed below).

- *Review of the Copyright Act 1994*: the previous Minister had agreed in January to restart the review, applying a two-stage approach to reforming the Copyright Act. Stage one would be for implementing new NZ-EU FTA copyright obligations along with a small number of other complementary reforms. As a first step the Minister wanted to hold consultations with a cross-section of stakeholder to test proposal

for inclusion in stage one. However, these were cancelled following his resignation. The Policy team is seeking confirmation from the new Minister on whether he would like to follow the same process.

- *Regulatory Systems Improvement Bill No. 3* received its Third Reading in Parliament on 19 March 2025. It contains a minor amendment to the Trade Marks Act's regulation making powers in relation to the border protection measures; and the Plant Variety Rights Act to clarify that 2022 Act renewal fees apply to grants made under the 1987 Act.
- *Patents Amendment Bill exposure draft* released on 18 March, with a two-week submission period. We aiming to have the Bill finalised and ready for the Minister to introduce by May.
- *IP Law Amendment Bill*: we are working towards finalising the Bill for introduction later this year.

**10.30**

**Any Other Business**

*Member raised a concern about IPONZ staff working on regional public holidays and the effect on correspondence dates.*

Response (provided post-meeting after discussion with the Patents Team Managers):

The concern relates to IPONZ staff working on closed days, where the closed day is a regional holiday.

For example: the situation where IPONZ staff based outside Wellington issues a letter on Wellington Anniversary Day closed day, with a short response deadline. A party with a Wellington-based agent could be at a disadvantage compared to a party with an agent based outside Wellington.

IPONZ has investigated the potential impact on clients of correspondence issued on regional closed days, specifically where periods are defined in days and set manually. IPONZ will consider ways to manage this via practice and update next meeting.

*Member queried the possibility of publishing guidelines around costs in oppositions where each party is partially successful.*

Response: It would be difficult to publish specific guidelines around this topic because the factors vary significantly case to case. IPONZ will consider whether it would be appropriate/possible to provide additional published guidance.

IPONZ will send options for the next Hearings TFG date to the members.

**Close of Meeting**

### Summary of Action Points

Owner	Action	Status
IPONZ	Circulate more detailed statistics relating to time frames to members.	In progress
IPONZ	Consider providing guidelines on costs in opposition proceedings where both parties are partially successful.	In progress
IPONZ	Consider how to manage the potential impact on clients of correspondence issued on regional closed days.	In progress

IPONZ	Circulate possible dates for the next TFG.	In progress
Members	Send agenda items for the next TFG.	In progress