

FICPI

COUNTRY REPORT

AUSTRALIA

May 2006

Meetings

We have had two Council meetings since our last report in October 2005, but no meeting of the full membership. However, our annual conference is set for the weekend of 2 September 2006 in Byron Bay, on the North coast of New South Wales. Business sessions are planned on Customer Relationship Management, Information Technology – What Next for IP Management, Effective Management of Electronic Communications, Industrial Relations Changes – Are the Rules Really any Different, Generation Y Employees – Retention, Aspirations and Performance Management, and Unexpected Principal Incapacity.

Plans are also progressing for an Executive Committee meeting in Australia in Northern Spring 2008. This will be in Sydney.

Membership

Since our last report, two of our senior members, Malcolm Royal and Terry Collins, have accepted invitations to become Honorary Members after retiring from their firm.

As most of you will know, Malcolm's health took a turn for the worse at the end of the Lisbon meeting, and he is not well. After recovering from an infection earlier this year, which was carried over from that meeting, he has recently had a positive reaction to a new drug regime for his tumour. Several members of the Association have visited Marg and him over the last few months and he is always pleased to see them. Marg was greatly relieved when I spoke to her shortly before leaving for Paris as they have acquired an Emergency Evacuation Chair, which is capable of carrying Malcolm up and down the many stairs at the beach house where they spend about half their time. They send their best wishes to the Executive Committee.

Meetings with Officials

IP Australia has recently renewed its call on the Australian Association for input to reviews of, proposals for and changes to Australian IP legislation and the PCT. A

discussion paper has been released by the Patent Office on the onerous search results' requirements under the Patents Act, which includes a proposal for a dramatic easing of the current late fee payment regime. This follows major input by the Association and others. It is hoped that the changes will be introduced to the Regulations this year.

In November 2005, the government released a report by the Advisory Council on Intellectual Property (ACIP) on Patents and Experimental Use following replies by the Association to ACIP's original issues paper. The main ACIP recommendation is to amend the Patents Act to include a patent infringement exemption for experimental use.

Website

The development of the Association's website is almost complete. Following approval by the membership, work is continuing on the final wording.

Legislation

In February 2006 a bill was passed limiting the circumstances in which an applicant for marketing approval of therapeutic goods will be required to file a patent certificate.

There have also been some proposals for major change IP legislation in Australia since the report to the Lisbon ExCo. In March 2006 the Intellectual Property Laws Amendment Bill 2006 was introduced to Parliament. The Bill proposes significant amendments to the Patents Act 1990 and the Trade Marks Act 1995. For the Patents Act, the proposals include amendments to clarify the prior use defence, to add another ground upon which a compulsory licence may be sought, to allow the award of exemplary damages in infringement proceedings, and which affect the ability to "springboard" on pharmaceutical patents. For the Trade Marks Act the proposals include amendments which affect the revocation of trade mark rights and access to trade mark documents filed with the Trade Marks Office.

Peter Huntsman
President
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