



**THE AUSTRALIAN FEDERATION OF INTELLECTUAL PROPERTY ATTORNEYS
FICPI AUSTRALIA**

28 July 2009

Mr Philip Noonan
Director General
IP Australia
PO Box 200
Woden ACT 2606

Dear Philip

"Getting the Balance Right"

As you know, IP Australia has embarked on an ambitious program to reform Australia's patent laws. The "Getting the Balance Right" paper ("GBR") identifies a number of areas that are to be considered as part of the reform package.

We appreciate the opportunities that our organisation has been given to consult on the proposed changes. Together with IPTA, we submitted a 65 page response to the proposals outlined in GBR. A very significant effort was involved in preparing the IPTA/FICPI joint response, and our organisations were involved in briefing counsel on some issues, and in obtaining advice and feedback from a number of overseas practitioners. Very many of our respective members were also involved in the preparation of the response to the government paper.

We understand that there was something like 60 responses to the discussion paper, but that only one person within the IP Australia Policy Group is going to be responsible for the review of these responses.

The package of proposed changes to the law is, in our opinion, as extensive as those that were introduced with the 1990 Act. We are concerned that it appears that only a small number of people at IP Australia are involved in progressing the proposals and considering the concerns that have been raised by third parties such as IPTA and FICPI. In our submissions, we have urged IP Australia to consider utilising the resources of ACIP, or alternatively referring some of the questions for more detailed review to another independent body (IPRIA, for example).

At the PCG meeting held on 22 July, we were advised that a second consultation paper would be issued shortly and that it would be in the form that one would generally see for instructing a parliamentary draftsman. This does not give us confidence that the second paper is actually intended as a full and meaningful consultation.

FICPI and IPTA both believe that some of the changes, if implemented, will have adverse consequences to the Australian innovation community.

We reiterate our willingness to participate in further discussions and consultation regarding the reform agenda, but urge IP Australia to take steps to utilise the resources of other policy and research bodies available to government.

Yours sincerely

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SECRETARY

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