

30 March 2026

Our ref: [KS:PDTIPS]

Dr James Popple
Chief Executive Officer
Law Council of Australia
Level 1, MODE 3
24 Lonsdale Street
Braddon ACT 2612

By email: [REDACTED]

Dear Dr Popple

Streamlining and simplifying IP Regulation

Thank you for the opportunity to provide feedback on IP Australia's 'Streamlining and simplifying IP regulation' consultation paper.

This response has been compiled by members of the QLS Privacy, Data, Technology and Intellectual Property Law Committee.

Our comments are limited to the Proposals discussed below.

Proposal 3: introducing an examination report response system for patents and trade marks

Members acknowledged there would be advantages and disadvantages to the proposal.

The current fixed time of 12 and 15 months allows pending applications which have no prospect of success to stay "in limbo" until they lapse.

However, overall the feedback from members was they did not support the proposed shift from a single long deadline to shorter response-based deadlines. For example, we are advised the existing "time to acceptance" system can be beneficial for startups and smaller clients as they can stage the costs of filing and responding to the exam report.

Trademarks can also be delayed for other reasons such as deferrals of acceptance and/or extensions of the period to provide evidence. Any backlogs might therefore be considered in a broader context.

Proposal 4: awarding costs above the schedule in trade mark oppositions

Members did not support this proposal and raised particular concern with a lack of clarity for clients around costs orders, particularly for SME applicants.

Streamlining and simplifying IP Regulation

It was suggested that a preferred approach would be a process to dispense with “exceptional cases” earlier in the opposition process to reduce unnecessary costs.

In terms of when it may be appropriate to allow costs above schedule costs, we suggest consideration might be given to allowing such discretion where Calderbank offers have been made.

Proposal 6: finalising trade mark oppositions that are not progressing

Members supported the proposed amendment to the Trade Marks legislation to give the Registrar power to dismiss or finalise oppositions where both parties have abandoned the matter and are no longer participating.

If the opponent does not request a Hearing or decision on written submissions, then the opposition should be treated as withdrawn.

However, in those circumstances we suggest the Registrar should be required to make appropriate enquiries with the opposition/their representative (or to make reasonable attempts to contact the opposition/their representative), prior to dispensing with the matter.

Proposal 7: correcting trade mark ownership errors

Members generally acknowledged there may be circumstances in which it would be appropriate to allow the Registrar to correct ownership errors before and after registration in defined circumstances and with necessary safeguards.

However, they also identified there are risks with post application amendment and vulnerability in respect of scam filings. As such, decisions of this nature would be best left within the court's discretion to ascertain whether the necessary circumstances have been met.

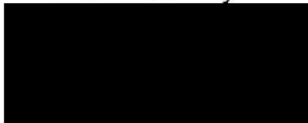
Whilst the proposal is supported in principle, we would welcome the opportunity to review any draft legislation to ensure sufficient criteria and safeguards are in place.

Lastly, we note the proposals do not consider issues previously raised by QLS regarding potential harms arising from unregulated agents representing an applicant, registrant or other third party before IP Australia on trade mark matters.

We take the opportunity to emphasise this remains an ongoing concern and QLS supports further investigation and consultation being undertaken by IP Australia to develop a policy response to these issues.

If you have any queries regarding the contents of this letter, please do not hesitate to contact our Legal Policy team via policy@qls.com.au or by phone on [REDACTED] [REDACTED]

Yours faithfully



Peter Jolly
President