



Law Council
OF AUSTRALIA

Business Law Section

Ms Jacqueline Carroll
IP Australia
PO Box 200
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Via email: consultation@ipaaustralia.gov.au

14 July 2015

Dear Ms Carroll

Public Consultation: Expanded use of automated processes by IP Australia

The Intellectual Property Committee of the Business Law Section of the Law Council of Australia (**IPC**) takes this opportunity to make a submission in response to the public consultation on the expanded use of automated processes by IP Australia.

The IPC supports IP Australia's aims to align and streamline its processes, improve service delivery and reduce unnecessary delays. The IPC is broadly supportive of efforts to use automated processes to make decisions that involve no exercise of judgement, where the rules are clear and applied with rigid criteria and to perform non-discretionary actions following from an earlier decision, action or lack of action.

Of the options proposed in the June 2015 call for submissions, the IPC supports option 3, namely to amend IP legislation to enable decisions and actions that relate to a delegate's exercise of a power or an obligation to be made by automated processes as prescribed in the Regulations.

The IPC notes two cautions.

- 1 It will remain important to ensure that decisions taken by automated processes remain capable of review and of being undone in a straightforward manner if the need arises. This may take the form of a power for the decision maker to revoke a decision taken by an automated process in certain circumstances. (We note, for example, that section 5A of the *Patents Act* 1990 and section 38 of the *Trade Marks Act* 1995, already provide mechanisms for decisions that should not have been made to be undone).
- 2 It will be important to ensure that the Regulations are kept current and that they are revised as may be necessary prior to IP Australia implementing any proposed new automated systems.

We look forward to the opportunity to comment on the particular legislative changes proposed once a draft bill is available for public comment later this year.

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If you have any questions regarding this submission please contact the Committee Chair, Sue Gilchrist by phone on 02 9225 5221 or by email at sue.gilchrist@hsf.com.

Yours sincerely

A handwritten signature in black ink, appearing to read 'John Keeves', with a long horizontal flourish extending to the right.

John Keeves, Chairman
Business Law Section