



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

23 March 2016

**By email**

[gavin.lovie@ipaaustralia.gov.au](mailto:gavin.lovie@ipaaustralia.gov.au)

Mr Gavin Lovie  
Assistant General Manager  
IP Australia  
PO Box 200  
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Dear Gavin

**Cross-Border Aspects of Client Attorney Privilege Stakeholder Survey**

On behalf of FICPI Australia, I am writing belatedly with respect to the invitation to provide comments and submissions in relation to Cross-Border Aspects of Client-Attorney Privilege. We note that the submission deadline was 1 March 2016 and we apologise for the late provision of these comments.

I start by noting that FICPI Australia has been involved from the outset in the push for broader recognition of client-attorney privilege and was involved in the discussions which lead to the amendment to section 200 of the Patents Act in Australia after the decision in *Eli Lilly v Pfizer*. In this respect, we worked closely with our sister organisation AIPPI. FICPI and AIPPI have, on an international basis, co-operated for some time on this issue. Both were involved in organising the Colloquium in Paris in June 2013 which was attended by numerous delegates throughout the world, including Fatima Beattie on behalf of IP Australia. We continue to urge the Australian Government to be involved in the Group B+ in pressing for harmonisation in this important field. This is more particularly so given that clients of overseas patent and trade marks attorneys are afforded privilege in communications under section 200 regardless of whether those communications are protected under overseas laws. In order for the playing field to be level, we consider it most important that Australian clients involved in enforcing patents or other IP rights in countries outside of Australia are afforded the same recognitions and protections.

We have been provided with a copy of the recently filed comments from AIPPI. We agree with all of the comments made by AIPPI. To restate these comments would only be unnecessary duplication.

FICPI Australia remains committed to reform in this area and urges IP Australia to continue its efforts in the Group B+ discussions. We would be more than happy to meet with representatives of IP Australia if further discussions would be useful.

Thank you for your continuing involvement in this important area of reform.

Yours sincerely

Greg Chambers  
Immediate Past President  
FICPI Australia

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