



THE AUSTRALIAN FEDERATION OF INTELLECTUAL PROPERTY ATTORNEYS  
FICPI AUSTRALIA

Mr Stuart Woodley  
Personal Property Securities Review  
Office of Legal Services Coordination  
Australian Attorney General's Department  
Robert Garran Offices  
3-5 National Circuit  
BARTON ACT 2600

Dear Mr Woodley

**Personal Property Securities Reform**

FICPI Australia, as an organisation whose members are all registered patent attorneys or registered patent and trade marks attorneys in Australia, and partners or principals in patent attorney firms conducting business in Australia, welcomes the opportunity to comment on the discussion paper of November 2006 regarding a review of the law on personal property securities.

In a large part, the discussion paper falls outside the direct interest of FICPI Australia and thus we do not seek to address all aspects of the discussion paper and the numerous questions raised.

FICPI Australia's interests and the interests of the clients of its members centre on the possible impact of the current review on the registers of trade marks, patents, designs and plant breeder's rights. Accordingly, our comments are limited to questions 5 and 22 of the discussion paper.

**Question 5: Should it be possible to register on the PPS Register security interest in patents, trade marks, designs and plant breeder's rights, and other forms of intellectual property by a unique registration number.**

Under the present regime, when a person requires information about a registered IP right such as a patent or trade mark, it is necessary to conduct a search of the records of IP Australia. The search is necessary to ascertain the current status of the intellectual property such as payment of renewals and whether there is any third party challenge to the right. This search, at present, also provides the person with details of any interests which are recorded against that intellectual property. Accordingly, all of the relevant information

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regarding the specific intellectual property right can be found in the one place.

In the event that it was possible (or necessary) to register security interests in intellectual property on the PPS Register, any person interested in dealing with that intellectual property right would be required to conduct at least two searches; namely a search of the records of IP Australia, and a search of the PPS Register. If the security interest was recorded against a company name, there would be significant risks that the search of the PPS Register would not identify the relevant intellectual property. Further, some forms of intellectual property registration rights carry different numbers at different times during their application/registration life. Currently, these different numbers are cross-linked in a manner which enables effective searching. FICPI Australia is concerned that the PPS Register would not offer the same ease of searching and flexibility.

Whilst it is FICPI Australia's preferred position that security interests remain recorded only on the records of the relevant IP Register, if it was decided that there were other imperatives showing economic advantages of having security interests registered on a single electronic registry, FICPI Australia strongly urges the retention of the current requirements that the security interest also be recorded against the relevant IP on the current IP registers.

**Question 22: Should the following kinds of property be designated as serial numbered collateral...(d) patents, (e) trade marks, (f) designs, and or (g) trade marks?**

Yes. However, for the reasons indicated above it would be crucial for an effective register that different numbers used for the same property type be cross-referenced.

**General**

FICPI Australia is concerned to ensure effective and simple access to relevant information regarding intellectual property rights.

We consider that the current registration of security interests on the relevant registers best meets business and commercial needs. Should any members of the standing committee of Attorneys General involved in the current review wish to meet with members of FICPI Australia to canvass these issues further, please do not hesitate to contact us.

Yours sincerely  
FICPI AUSTRALIA



Greg M. Chambers  
SECRETARY