

MEDIA RELEASE



Warren Entsch, MP
Parliamentary Secretary to the
Minister for Industry, Tourism and Resources

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IP RIGHTS AND THE FEDERAL MAGISTRATES SERVICE

Options to use a less costly and quicker route for businesses to enforce their intellectual property (IP) rights is the focus of recommendations in a report from the Advisory Council on Intellectual Property (ACIP)

Federal Industry Parliamentary Secretary Warren Entsch today released the report, which recommends extending the jurisdiction of the Federal Magistrates Service (FMS) to patent, trade mark and design matters. The report notes the FMS has worked well in other jurisdictions by providing relatively quick and cheap dispute resolution mechanisms and it is expected that these benefits could also apply to IP matters.

“IP is increasingly important to Australian businesses,” Mr Entsch said. “They need to be vigilant in protecting their rights, and the need for access to timely and effective dispute resolution processes is an important issue.

“The government is keen to consider options to make it less onerous on business to enforce and defend their IP rights. Businesses are unlikely to seek to innovate and improve upon their existing capital unless their IP rights are enforceable in *real terms*,” Mr Entsch said.

The report – *Should the jurisdiction of the Federal Magistrates Service be extended to patent, trade mark and design matters?* – also recommends changes to streamline current court processes and a more proactive approach by the courts to case manage IP matters. It encourages a greater use of alternate dispute resolution mechanisms by the courts and the early appointment of judges and magistrates with expertise in intellectual property.

ACIP believe these proposals could help address the problems businesses experience in pursuing IP litigation including issues of high costs, complexity, timeliness, uncertainty of outcome and the judiciary's limited expertise in IP matters.

“The FMS may prove to be a less intimidating and a more acceptable avenue for smaller businesses to pursue the enforcement of their IP rights than the current court systems,” Mr Entsch said. “It could also provide greater consistency for IP owners as the jurisdiction of the FMS has already been extended to civil copyright matters.”

Mr Entsch thanked ACIP for their report, noting that if the recommendations were to have any real effect, they would require an acceptance by the judiciary, IP and legal professionals, and Australian businesses that cultural and procedural changes were needed.

Mr Entsch said the government would consider the detail of ACIP's report. A copy of the report is available at www.acip.gov.au.

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