

Sapere Research Group Limited

“Trans-Tasman harmonisation of intellectual property law regimes – the costs and benefits”

Executive summary of material conclusions

Summary:

- 1 Direct benefits to NZ business in dual **patent** filing portal small. Some saving in application costs (max \$3k) offset by potential increased delays in examination. **Cost of delay needs only to be \$540 to outweigh the benefits to NZ business.** Whether there is actually delay will depend on whose view re: examination of NZ only applications prevails (see 1.1.1).
- 2 Cost of filing only in NZ (of which the majority of NZ patent applications are) may increase to cover costs of joint filing portal.
- 3 Note that this is the first time we have had clarity around what the single patent examination model will look like (see 1.1.1) and what the intention is for a trans-Tasman trade marks Register (see 1.1.2).
- 4 **Overall conclusion** – overseas business applying for dual patents only real winners.

Trade marks:

- 5 Agrees compliance cost to NZ business will increase under trans-Tasman **trade mark** Register model (page 10) because of larger number of marks presenting FTO issues. Officials say costs insignificant – but don't understand the process. (i.e. businesses often seek to register *after* adopting a mark and will face significantly increased compliance issues). Notes: competitive disadvantage re: “tm attorney” brand (4.1). Also identifies examination delays. Trial of joint examination between IP Australia and IPONZ showed limited economies of scope (page 12). **Conclusion – difficult to envisage benefits flowing to NZ business. NZ businesses filing only in NZ disadvantaged by \$211 per application.**

Patents:

- 6 Both attorneys and businesses envisage increased compliance costs and freedom to operate issues if overseas applicants who do not currently file in NZ do so under the joint filing portal. **Limited benefits to NZ. Patent fees will rise** – at least to Australian levels in the first instance. Any cost savings assume attorney firms will charge a single fee for filing in Australia/NZ (safe assumption?). Key issue timeliness of grant (3.6).

- 7 Identifies hollowing out issues (page 29) likely to be compounded by education options (or lack thereof) – **leads to increased costs to NZ business (page 30)** [see comment from NZ business re: need to retain local talent pool page 29].
- 8 Official view is opposed (ie net positive benefit) but with no empirical or commercial justification.