From:	Kristy Tan
To:	MDB-Secretary TTIPAB
Subject:	Submission to the TTIP Board to review Regulation 20.10 of the Patent Regulations 1991
Date:	Wednesday, 16 February 2022 2:27:06 PM

Dear Secretariat,

This email is a submission to the TTIP board in relation to the review of the regulatory regime. Thank you for agreeing to consider this submission despite it being past the submission deadline.

By way of background, I have been working in the IP industry since July 2016 and commenced my training in Singapore being employed by Davies Collison Cave Asia Pte Ltd. Subsequently, I moved to an in-house IP position at ResMed Asia Pte Ltd in October 2019. I have since moved back to Sydney and obtained a permanent International Assignment internally and am now employed by ResMed Pty Ltd starting Jan 2022. Throughout my employment in Singapore, as both companies have headquarters in Australia, I worked on numerous matters dealing with local Australian and New Zealand law and have navigated the intricacies of IP Australia and IPONZ. Throughout my employment, I was supervised and mentored by Australian qualified patent attorneys with decades of experience.

Throughout my stints overseas, I had always known that I would one day move back home to Australia and as such, I started taking the Masters in IP course in 2020 offered by UTS via distance learning whilst I was living in Singapore. I intend to rely on my experience training under AU qualified patent attorneys whilst working on AU and NZ matters in Singapore to seek qualification as a TTIP patent attorney. However, I discovered that the current wording of Reg 20.10(1) of the Patent Regulations 1991 (Cth) may preclude the experience obtained outside of AU/NZ. In this era of remote and flexible working, I believe that Reg 20.10 is arcane and unfair and would like to raise it as an item to the board. I question if it was indeed the intent of lawmakers to preclude the gathering of experience and skills just because a person was not physically within the geographical borders of Australia and/or New Zealand.

The amendments to Regulation 20.10 were *introduced "to ensure that a prospective attorney has experience that is relevant to the Australian and New Zealand situation, including dealing with the unique needs of clients in these countries"* (Item 19 of Explanatory Statement, Intellectual Property Legislation Amendment (Single Economic Market and other Measures) Regulation 2016). In addition, the terms *"employed in Australia*" and "*employed in New Zealand*" were defined in new subregulations 20.10(3) and 20.10(4) with the intention *"to ensure that the person undertakes the employment within the geographical boundaries of Australia and New Zealand*" (Item 24 of Explanatory Statement, Intellectual Property Legislation Amendment (Single Economic Market and other Measures) Regulation 2016). I submit that a prospective attorney would be able to attain experience relevant to the Australian and New Zealand situation including dealing with the unique needs of clients in these countries as well as with the patent offices without requiring said prospective attorney to be employed within the geographical boundaries of Australia and New Zealand. I strongly believe that a prospective attorney would be able to fulfil all the requirements and attain the requisite skills without the need to physically be in Australia or New Zealand for the entire period of training.

As Australian firms continue to grow internationally, driven by an increase in publicly listed IP holding companies which result in international acquisitions and expansion outside of Australia and New Zealand, I believe more and more applicants would find

themselves in a similarly disadvantaged position as myself. TTIP attorneys increasingly leave Australia and New Zealand to set up new offices and during this time, mentor and train new trainees outside the geographical boundaries of Australia and New Zealand. I am aware of at least 2 peers who were interested in pursuing qualification in Australia but were dissuaded to do so due to their interpretation of the regulations as it stands.

I believe that the regulations should be amended as it is unfair to some applicants who find themselves seeking registration in Australia and in all other ways fulfil the requirements but for their physical location at the time of acquiring the skills. As the world evolves from face-to-face physical meetings to remote zoom video conferences, time efficiencies are increased resulting in reduced costs which allow patent attorneys to work remote to their clients without compromising on service. I submit that the regulations should reflect the day and age of technology that we live in as well as the way in which the profession continually shifts the way it conducts its business.

Thank you for considering this matter and please do not hesitate to contact me should you have any need to discuss this matter further.

Kind regards,
Kristy

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