

## Government to overhaul IP legislation

Posted on 08/06/2009 by [Kate Duckworth](#)

In November 2008 a new government was voted into Parliament in New Zealand. With the new government has come progress on some longawaited IP legislation.

The Government recently scrapped the Copyright (Commissioning Rule) Amendment Bill and the Copyright (Artists' Resale Right) Amendment Bill both of which were introduced by the previous Government. The Copyright (Commissioning Rule) Amendment Bill aimed to change the current law, which provides that the person who commissions a work (excluding literary works) owns the copyright. The Copyright (Artists' Resale Right) Amendment Bill provided artists with a mandatory resale right for artists when their artistic works are resold in New Zealand.

The Government has put on hold and agreed to review an amendment to the Copyright Act introduced by the previous Government, which meant that internet service providers had to adopt and reasonably implement a policy for termination of repeat infringers' accounts.

The Trade Marks (International Treaties and Enforcement) Amendment Bill amends both the Trade Marks Act 2002 and the Copyright Act 1994. The Bill implements the

Madrid Protocol and Singapore Treaty, moves primary responsibility for the enforcement of the criminal offence provisions on counterfeit and pirated works under the Trade Marks Act and the Copyright Act from the police to the Ministry of Economic Development, and abolishes

registration of licences under the Trade Marks Act.

The Patents Bill is a serious overhaul of the outdated Patents Act 1953. Important amendments include a shift to absolute novelty, and specific exclusions from patent protection for human beings and biological processes for their generation, methods of medical treatment of human beings, plant varieties and inventions the commercial exploitation of which would be contrary to public order or morality. It introduces an experimental use exception and a reexamination process for third parties, but removes pre-grant opposition.

In designs, the Regulatory Improvement Bill amends the Designs Act 1953 by allowing for restoration of a registered design where the lapse was unintentional.

There has, however, been no progress on a review of the Plant Variety Rights Act or the Geographical Indications (Wine and Spirits) Registration Act 2006, both of which were begun by the previous government.

The new Bills have been referred to various select committees for consideration. They may take some time to come into force, but the recent flurry of activity indicates that the government is committed to updating New Zealand's IP legislation.

This article was published in *Managing Intellectual Property*, June 2009.