



3 November 2020

DOIA 2021-0805

John Luke

Email: fyi-request-13954-6630d576@requests.fyi.org.nz

Dear Mr Luke,

Thank you for your email of 12 October 2020 requesting, under the Official Information Act (**OIA**) 1982, information about the Copyright Tribunal, in particular:

- its members and their selection process
- the pay rate for members and the Chairperson
- the attendance rate for each of the members for the last three years.

Annex 1 provides this information. Please note that members' personal details have been withheld under section 9(2)(a) of the OIA.

The Tribunal has not received any applications to either resolve licensing disputes or determine infringements under the Peer-to-Peer infringing file sharing regime since 2015. As a consequence, it has not met in the last five years.

Please note that the attendance rate for each member of the Tribunal is not held by Ministry of Business, Innovation and Employment or Ministry of Justice. It is Tribunal information and is therefore not subject to the OIA.

Where information in a document has been redacted or the whole document withheld, I do not consider that the withholding of this information is outweighed by public interest considerations in making the information available.

You have the right to seek an investigation and review by the Ombudsman of my decision to release some documents with redactions. Information about how to make a complaint is available at www.ombudsman.parliament.nz or 0800 802 602.

Yours sincerely,

Susan Hall
Manager, Corporate Governance and Intellectual Property



Annex 1: Information about members of Copyright Tribunal

Name	Location	Bio
Professor Susy Rebecca Frankel (Chair)	Wellington	<p>Ms Frankel is a Professor of Law at Victoria University of Wellington, Director of the New Zealand Centre of International Economic Law and Chair of the Copyright Tribunal (NZ). She was a Consultant Expert to Waitangi Tribunal on the WAI 262 flora fauna and indigenous intellectual property claim (Waitangi Tribunal Report, 2011 Ko Aotearoa Tēnei).</p> <p>Ms Frankel qualified as a Barrister and Solicitor of the High Court of New Zealand in 1988 and as a Solicitor of England & Wales in 1991. She is a member of the Executive Committee of Association for the Advancement of Teaching and Research in Intellectual Property (ATRIP) and of the editorial boards of Journal of World Intellectual Property, Queen Mary Journal of Intellectual Property and the University of Western Australia Law Review.</p>
Ms Jane Megan Glover	Waiheke Island	<p>Ms Glover has extensive specialist expertise in relation to intellectual property disputes, both as an advocate and adjudicator. She was an Assistant Commissioner of Trade Marks and Patents with the Intellectual Property Office of New Zealand (IPONZ) from 2013 until returning to private practice in 2019. In that role, Ms Glover regularly decided cases about registrability of trade marks and patents, trade mark similarity and related matters such as applications for revocation and declarations of invalidity.</p> <p>Ms Glover has been a member of the Copyright Tribunal since 2012, and determined the first file-sharing infringement case when its jurisdiction was expanded. She is currently the Deputy Chair of the Copyright Tribunal.</p>
Ms Sarah Louise Bacon	Wellington	<p>Ms Bacon practises primarily in the areas of commercial litigation, media law and public law. She has a wealth of experience in copyright and trade mark issues as well as experience in matters relating to film production and other areas of entertainment law.</p> <p>Ms Bacon has appeared in the District Court, High Court, Court of Appeal and Supreme Court as counsel on a wide range of disputes.</p>

Mr Peter Charles Dengate Thrush	Wellington	<p>Peter Dengate Thrush is a barrister specialising in internet law, intellectual property, and competition. Mr. Thrush is the former Executive Chairman of Top Level Domain Holdings Ltd., which is the parent company of Minds + Machines. He is a former Chairman of the Board of Directors of ICANN, a position he held from November 2007 until June 2011.</p> <p>He served multiple terms as Chairman and was elected to his last term following the ICANN Annual General Meeting in December 2010.</p> <p>Mr. Thrush also sat on the ICANN President's Strategy, Board Finance, Board Governance and Executive committees.</p>
Mr Paul Sumpter	Auckland	<p>Paul Sumpter's primary area of research and teaching is Intellectual Property, which was his principal field of practice over many years in Auckland (as a partner in Kensington Swan) and also in Sydney.</p> <p>He is the author of Intellectual Property Principles in Practice (CCH NZ, 2nd edition, 2013), Trade Marks in Practice (LexisNexis, 2nd edition, 2011) and a co-author of Copyright and Design (LexisNexis).</p> <p>He is member of the Copyright Tribunal of New Zealand (since 2004) and is a consultant in the national law firm Chapman Tripp.</p>
Ms Sarah-Jane Ellen Weir	Nelson	<p>Ms Weir provides specialist advice in the information technology, intellectual property, charitable, contracts and tendering fields, as well as in general commercial work, including commercial entity structuring. She has industry expertise in the utilities sectors, including energy and telecommunications, in data usage, including protection and privacy obligations for business, and in local government and policy work.</p> <p>Sarah-Jane was appointed to the Copyright Tribunal in 2014, the Nelson Standards Committee, and chairs the Nelson Marlborough Branch of the Institute of Directors. She is a Director at Network Tasman Limited and Nelmac Limited, and a trustee and Vice-Chair of the Rata foundation. During 2013, Sarah-Jane was invited to participate in the Institute of Directors 'Mentoring for Diversity' programme.</p>

The Chairperson of the Tribunal can claim \$827 and a member \$521 for a sitting day, as set under the Cabinet Fees Framework.

Selection process

The Copyright Tribunal (the **Tribunal**) is a statutory body established under section 205 of the *Copyright Act 1994* (**the Act**). Under section 206(1) the Tribunal consists of a Chairperson and at least two, but not more than five, other persons. Members

are appointed for up to five years and can be re-appointed. Under section 207 should the term of a member of the Tribunal expire, the member continues in office until re-appointed or a successor has been appointed.

The Chairperson of the Tribunal is appointed by the Governor-General on the recommendation of the Minister of Commerce and Consumer Affairs (the **Minister**) made after consultation with the Minister of Justice; and shall be a barrister or solicitor of the High Court of not less than seven years' practice, whether or not the barrister or solicitor holds or has held judicial office.

The other members are appointed by the Governor-General on the recommendation of the Minister.

The Ministry of Business, Innovation and Employment (**MBIE**) initiates the recruitment process for the Chairperson and members on behalf of the Minister. Vacancies are publically advertised, including on MBIE's careers website. Nominations for the Tribunal positions are sought from other agencies including from Te Puni Kōkiri, Ministry of Women's Affairs and Treasury. The Minister also invites Caucus colleagues, and where applicable, the Government's coalition and support partners, to nominate suitable applicants.

Once applications are received, MBIE convenes a selection panel to consider shortlisting applicants, interviews the shortlisted applicants and recommends suitable applicants to the Minister for appointment. Applicants recommended for appointment are selected to provide a mix of persons with an appropriate knowledge, skills and experiences relevant to the functions of the Tribunal. Other factors considered include an applicant's conflicts of interest, character, gender, ethnicity and geographic representation.

Cabinet's Appointments and Honours Committee reviews all proposed appointments to the Copyright Tribunal, before being confirmed by Cabinet.