



Australian Government



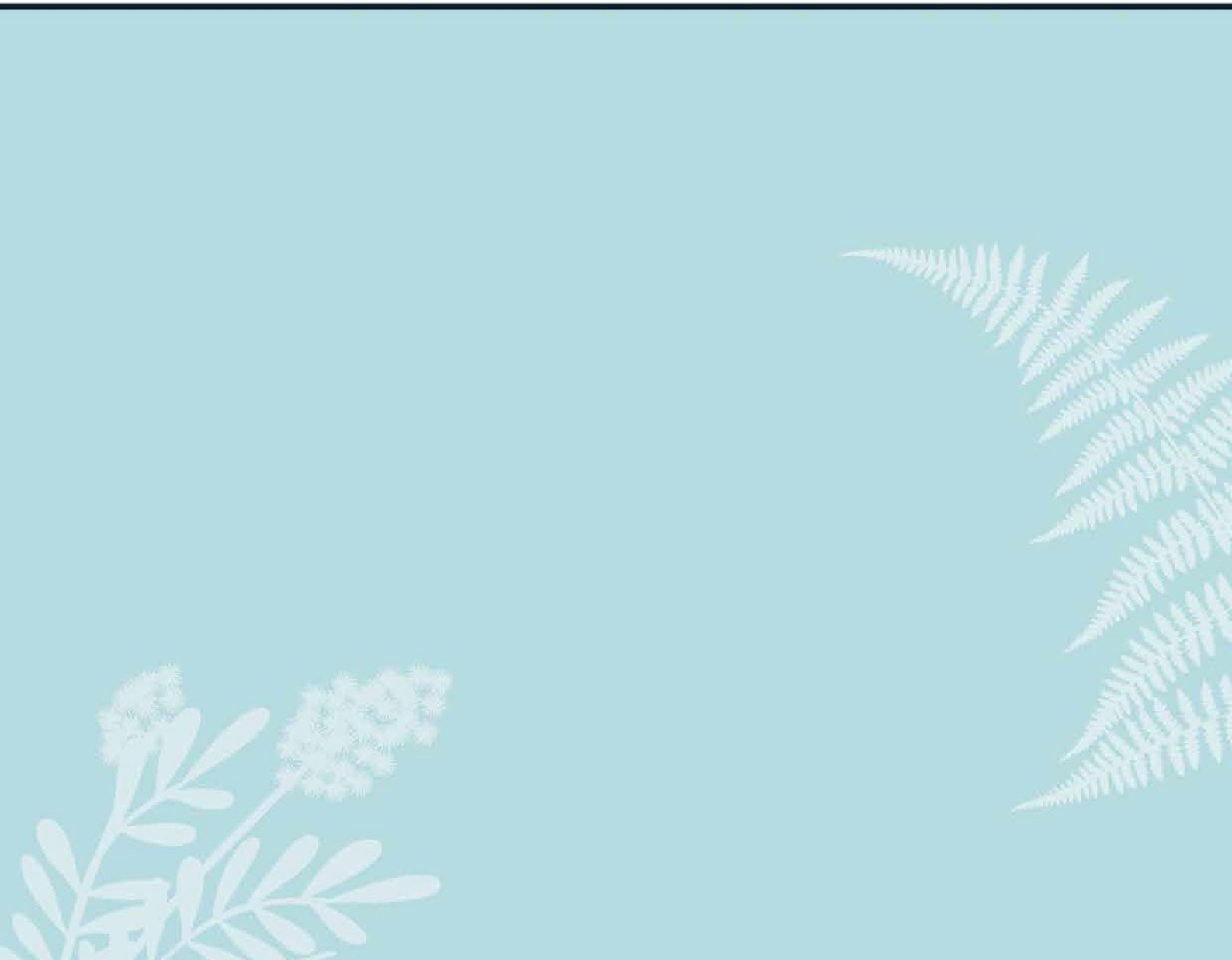
New Zealand Government
Te Kāwanatanga o Aotearoa

Trans-Tasman IP Attorneys Board

Competencies Review

Update to the Professions

May 2025



2025 SPP Report on the Competencies Review

Introduction

The Trans-Tasman IP Attorneys Board (the Board) received from its consultant Strategic Project Partners (SPP) the 2025 Report on the Competencies Review (the SPP Report). The SPP Report included several recommendations directed towards improving how Australian and New Zealand patent attorneys' and Australian trade marks attorneys' (IP attorneys) competencies are defined, acquired and maintained.

At the Board's April 2025 meeting, the Board discussed the issues arising out of the SPP Report and the acceptance and implementation of the SPP Report recommendations. The insights of the SPP Report are a reflection of the quality of feedback and positive engagement of the participants in the Competencies Review consultations and surveys.

This update is to inform the IP attorneys of:

1. the broad themes and issues arising from the SPP Report,
2. the opportunities for improvement which were not included in the final recommendations,
3. the recommendations arising from the SPP Report,
4. the Board's view on the recommendations, and
5. the next steps.

Broad themes and issues

Broad themes from consultations and the surveys

The SPP Report and its recommendations were largely guided by the themes emerging from the consultations and surveys. These are:

- Accredited courses provide the requisite academic knowledge but do not provide the complete core competencies required to practice without supervision immediately post-registration.
- Trade marks attorneys need pre-registration practical experience obtained through employment, just as patent attorneys do.
- The curriculum of studies for the knowledge requirements has insufficient focus on international law and practice.
- Knowledge of technical aspects of commercialisation is not a core competency that attorneys require.
- Accredited courses may be improved in the following domains:
 - Communication between students and teaching staff
 - Consistent marking of practical subjects
 - Thresholds for passing
 - Course availability
- The accreditation process should be broadened to take account of outputs, such as marked papers and marking frameworks.
- Two years of practical experience through employment, as mandated by the Regulations, is insufficient for independent practice (noting that on average supervisors sign off on Statements of Skills after 38 months of supervised experience).
- There is significant variability as to the depth of the supervision and the experience provided to attorneys pre-registration, and more structure to the experience requirements and statements of skill is desired.
- Professional practice "soft skills", such as client communication, is lacking.

Broad issues

The Board considered two broad conceptual issues raised by the SPP Report.

1. The impact of “de-coupling” the patents knowledge requirements from the trade marks knowledge requirements, so that candidates seeking patent attorney registration do not have to complete trade marks content to become registered as a patent attorney.
2. Reconciliation of the finding from the consultations that the accredited courses are effective, with the finding from the survey that newly-registered IP Attorneys need continued supervision in many of the core skills required of an IP attorney.

Opportunities not recommended by SPP

In addition to the 9 recommendations set out below, SPP identified 3 “opportunities” which were ultimately not recommended to the Board.

1. *Develop a mandatory series of CPEs IP attorneys must complete in their first 1-3 years post-registration*
 - Not recommended because competencies should be acquired through accredited courses and work experience prior to registration.
2. *Review curriculum and add additional legal study*
 - Not recommended because stakeholders did not all agree that further study of broader legal concepts was necessary.
3. *Introduce a supervised practice period post registration [for patent attorneys]*
 - Not recommended because this would increase barriers to entering a profession which already has an extensive training and registration process.

Recommendations in the SPP Report

SPP found that overall the current accredited course and attorney competency systems are working effectively and that there is a high degree of confidence about these systems within the profession and from key stakeholders.

To further enhance the regime, SPP made the following 9 recommendations, which were informed by the extensive consultations, survey results, benchmarking and desktop research.

SPP Recommendations	SPP Reasoning
<u>No. 1.</u> Establish a guiding statement which communicates the objectives of registration to the sector and establishes what is expected of newly registered attorneys	<ul style="list-style-type: none">• Establishing a guiding statement about the objectives of registration will align across the professions the understanding of what can be expected from newly-registered attorneys• Benchmarking identified that the Trans-Tasman IP Attorneys regime lacks the guiding competency statement and framework that its international counterparts have• Does not require regulatory change and will guide further improvements
<u>No. 2.</u> Formalise an updated competency framework to support the guiding statement and inform updates to the curriculum, as required	<ul style="list-style-type: none">• Supports the guiding statement in establishing a clear understanding of what is expected from patent attorneys and trade mark attorneys at the time of registration

	<ul style="list-style-type: none"> Communicates the roles of each profession and the core skills expected of attorneys to both the profession and broader sector Can be used to inform a review and update to the curriculum of studies
<u>No. 3.</u> De-couple the knowledge requirements for the two professions, removing the topic areas relating to trade marks from the patent attorney knowledge requirements, to ensure curriculum is directly relevant to work as a patent attorney	<ul style="list-style-type: none"> Establishes separate knowledge requirements for patent attorneys and trade marks attorneys that are specific to the roles each play Enables the ambition of the guiding statement and competency framework (as described above) to be reflected into the curriculum of studies Will create additional space in the curriculum of studies for the knowledge requirements for patents, and enable the curriculum to be rebalanced to meet the current demands of the users of the IP system
<u>No. 4.</u> Expand the patent course ¹ to increase the coverage of international IP law and practice, as it relates to multi-jurisdictional practice and prosecution, to rebalance the curriculum to meet the current demands of the users of the IP system	<ul style="list-style-type: none"> International IP law and practice, as it relates to multi-jurisdictional practice and prosecution, has been identified as an increasingly important area of Trans-Tasman patent attorneys' practice If it is feasible to de-couple the knowledge requirements for patent and for trade marks attorneys, there is an opportunity to include additional topics in the curriculum of studies for the patent knowledge requirements Enables the focus of the curriculum to be rebalanced to meet the current demands of the job and the needs of the users of the IP system May impact existing subjects, and could require new subject(s) to be created
<u>No. 5.</u> Establish a more rigorous accreditation process for Board accredited courses, including an initial audit of selected subjects	<ul style="list-style-type: none"> Ensures all courses are teaching and assessing to a similar high standard Enables identification and improvement of courses that are not meeting expectations A targeted audit of the subjects most at risk of not meeting quality expectations, as a first

¹ The Board has interpreted SPP's reference to "the patent course" to be the curriculum of studies for the knowledge requirements for patents (and the curriculum of studies for the knowledge requirements for trade marks, in the event that there is de-coupling of the latter requirements from the former requirements).

	<p>step, will enable pressing concerns to be addressed</p> <ul style="list-style-type: none"> • Allows detailed aspects of subject delivery to be understood (e.g. Who conducts the marking?; What is the university's quality assurance model for marking?; Are there differences in the process for online and face-to-face courses?) • New process may be significantly more time intensive than the current process
<u>No. 6.</u> Establish a more structured work experience program ² for patent attorneys and clarify expectations for both trainees and supervisors	<ul style="list-style-type: none"> • Defines a clear minimum standard of experience and exposure prior to registration • Shifts the focus from a time-based approach to a skill-based approach, ensuring trainees develop the necessary competencies rather than just meeting a time requirement • Ensures greater consistency for trainees, regardless of where they complete their work experience • Enables the ambition of the guiding statement and competency framework (as described above) to be reflected into the work experience program • Provides opportunity to upskill supervisors and ensure they understand their responsibilities • There may be challenges in implementing and monitoring adherence to the program
<u>No. 7.</u> Implement work experience requirement for trade marks attorneys, aligning it to the structured approach recommended for the patent attorney work experience program	<ul style="list-style-type: none"> • Establishes a minimum competence and skill level for all registered trade marks attorneys • Reduces the risk of poor quality advice or practice occurring
<u>No. 8.</u> Add additional structure and more clearly articulate expectations to guide the completion and assessment ³ of the statement of skill for both trainees and supervisors	<ul style="list-style-type: none"> • Provides clear guidance to trainees on the type of experience they should be seeking • Clarifies, for both trainees and supervisors, the skills and proficiency level to which the statement of skill must attest

² The Board has interpreted SPP's reference to "work experience program" to be the regulation 20.10 requirement of experience in specific skills obtained through employment.

³ The Board has interpreted SPP's reference to "assessment" of the statement of skill to be the Designated Manager's role to review the evidence that must be accompanied by an application for registration under reg 20.3 of the *Patents Regulations 1991* (Cth). This includes a review of the statement/s of skill.

	<ul style="list-style-type: none"> Creates an opportunity to ensure acquisition of professional practice skills by requiring direct client engagement experience
<u>No. 9.</u> Encourage the provision of more trade marks specific CPE courses	<ul style="list-style-type: none"> Better enables trade marks attorneys to develop their skills and practice Low effort required to encourage providers to offer additional CPE courses

The Board's decisions in relation to the Recommendations

Recommendation 1: *Establish a guiding statement which communicates the objectives of registration to the sector and establishes what is expected of newly registered attorneys*

Board view: The Board **accepts** this recommendation. The Board recognises that a statement which clearly articulates the level of knowledge and skill required for registration provides a principled foundation for the framework of attorney registration and course accreditation. A draft of a guiding statement will be prepared.

Recommendation 2: *Formalise an updated competency framework to support the guiding statement and inform updates to the curriculum, as required*

Board view: The Board **accepts in principle** this recommendation. The Board notes that the relevant Regulations (*Patents Regulations 1991* (Cth) and *Trade Marks Regulations 1995* (Cth)) do not prescribe a competencies framework; therefore, if implemented, a competency framework would be a guide only. Further analysis of the competency survey data will be undertaken to inform a draft of a competency framework.

Recommendation 3: *De-couple the knowledge requirements for the two professions, removing the topic areas relating to trade marks from the patent attorney knowledge requirements, to ensure curriculum is directly relevant to work as a patent attorney*

Board view: The Board **accepts in principle** this recommendation. The Board notes that not requiring prospective patent attorneys to satisfy the knowledge requirements for trade marks may require legislative change, and may have implications for the viability of accredited courses in trade marks if prospective patent attorneys are no longer required to undertake them. Consultation will be undertaken with the professions and the universities, to assess the demand for this change and the practical implications of it.

Recommendation 4: *Expand curriculum of the patent course to increase the coverage of international IP law and practice, as it relates to multi-jurisdictional practice and prosecution, to rebalance the curriculum to meet the current demands of the users of the IP system*

Board view: The Board **accepts in principle** this recommendation. The Board noted feedback during the consultations—particularly from users of the IP system—suggesting that the current coverage of international content in the patent knowledge requirements may be insufficient. Australian and New Zealand patent attorneys frequently advise on matters involving the US, China, Japan, and Europe, and should be capable of drafting applications and responses suitable for prosecution in those jurisdictions. The Board will undertake further consultation on this issue with universities and the professions.

Recommendation 5: *Establish a more rigorous accreditation process for Board accredited courses, including an*

initial audit of selected subjects

- **Board view:** The Board **accepts in principle this** recommendation. The Board recognises that a more rigorous accreditation process would require considerable resources. It also recognises that the tertiary education sector is already subject to regulation and review under existing frameworks, such as those overseen by Tertiary Education Quality and Standards Agency (TEQSA). The Board notes that the various health professions have established accreditation bodies, whose processes could serve as a useful model. The Board will consider how the accreditation process can be improved.

Recommendation 6: *Establish a more structured work experience program for patent attorneys and clarify expectations for both trainees and supervisors*

Board view: The Board has **not yet reached a concluded view** on this recommendation. The Board recognises the current variability in the work experience process, noting that larger firms tend to have more structured programs compared to smaller firms. Specifying more clearly the expectations of both trainees and supervisors would be beneficial. Enhancing the form and content of the required statement of skill, by being more prescriptive about what constitutes adequate work experience [Recommendation 8], may be sufficient. The Board will revisit this recommendation, along with Recommendation 8, at its next meeting.

Recommendation 7: *Implement a work experience requirement for trade marks attorneys, aligning it to the structured approach recommended for the patent attorney work experience program*

Board view: The Board **accepts** this recommendation. The Board notes that implementing this recommendation would require legislative amendment. A policy submission justifying the change would be required. The Board will prepare a policy submission.

Recommendation 8: *Add additional structure and more clearly articulate expectations to guide the completion and assessment of the Statement of Skill for both trainees and supervisors*

Board view: The Board has **not yet reached a concluded view** on this recommendation. The Board notes that, under the Regulations, consideration of the adequacy of the Statement of Skill of an applicant for registration is a responsibility of the Designated Manager, not the Board. However, it is open for the Board to provide recommendations to the Designated Manager on what constitutes a “best practice” Statement of Skill. The Board recognises that specifying more fully in the Statement of Skill the expectations of both trainees and supervisors would be beneficial, and may also address the issue to which Recommendation 6 is directed – a more structured work experience. The Board will revisit this recommendation, along with Recommendation 6, at its next meeting.

Recommendation 9: *Encourage the provision of more trade marks specific CPE courses*

Board view: The Board has **not yet reached a concluded view** on this recommendation. The Board will investigate whether the current CPE offerings for trade marks is insufficient, and will revisit this recommendation at its next meeting.

Next steps and feedback

The Board is currently working to:

- develop an implementation strategy – which may occur in stages given the considerable, complexity, resources available, and need to consider regulatory change
- further consult with relevant stakeholders on specific issues

The Board's next meeting is on 30 July – 1 August 2025.

The Board welcomes your continued **feedback** as it embarks on this next stage of the Competencies Review. If you have any feedback, comments or questions please send them to the [TTIPAB Secretary](#).