



Trans-Tasman IP Attorneys Board Post-Meeting Communiqué Meeting 22; 25 & 26 July 2022

The Trans-Tasman IP Attorneys Board met on 25 & 26 July in Christchurch. In addition to the standard business of considering applications from attorney candidates and professional conduct matters, the Board considered an application for course accreditation from the University of Auckland, discussed upcoming strategic activities, and discussed IP and the protection of Indigenous Knowledge with representatives from the Māori IP Committee and the IP Australia Indigenous Knowledge Group.

Professional conduct

The Board is aware that stakeholders would like to be provided with more detailed information about the types of matters that are raised. In response, the following commentary provides further details of matters currently before the Board:

- One matter is related to proceedings which are currently underway before the Trans-Tasman IP Attorneys Disciplinary Tribunal, regarding a claim of inadequate provision of advice to a client pursuant to regulation 20.35 of the *Patents Regulations 1991*. Underpinning the charges in this matter is compliance with the Code of Conduct regarding: the level of due skill and care; the requirement to disclose to a client all information materially relevant to the work being completed; and the maintenance of standards of professional practice that were courteous, ethical, and well-informed.
- Two matters revolve around reports of attorneys allegedly carrying out work for which they were not qualified. Whilst the Board is investigating these issues, these allegations show how important the creation and maintenance of accurate and complete record keeping is for both attorney and client. A practice note about record keeping obligations and best practice around the requirements will be discussed at the next Board meeting in November.
- One matter is related to legal advice given during a copyright dispute, in particular advising on the terms of a legal settlement and disagreement over termination of the complainant. The privileges of a registered patent or trade mark attorney do not extend to purely legal matters. Because this issue was of a purely legal issue, termination of the legal retainer, and did not involve a question of intellectual property; whether the retainer was rightly terminated is most appropriately determined by the Law Society. It is for this reason that the Board does not intend to consider the termination further. Subject to any findings from the Law Society, the Board may consider the matter further if those findings show any conduct by the practitioner that potentially has bearing on their practice as a patent or trade mark attorney.

Amendments to the Guidelines for the Code of Conduct are being drafted. These will be published later this year and a webinar will be delivered to support the profession's understanding of the review of the Code of Conduct and the amendments themselves. Invitations to the webinar will be widely distributed via social media, the TTIPB's website and direct email contact to registered attorneys.

Course accreditation

The following postgraduate course offered by the University of Auckland has been accredited: LAWCOMM 795 Copyright and Design.

This course falls within Topic Group I as it covers an in-depth examination of the law of copyright and registered designs in New Zealand and Australia, including the relationship between these rights. Subjects such as filing, examination, infringement, newness and distinctiveness, and the practices and procedures of IPONZ and IP Australia are delivered.

Strategic, communication and outreach activities

Indigenous Knowledge is an important asset belonging to Indigenous people, their communities, organisations, and businesses. The Board heard about these issues from the perspective of New Zealand, from Karen Te O Kahurangi Waaka, and Australia, from Matthew McLeay and Lara Keogh.

Karen is the Chair of the Māori Trade Marks Advisory Committee. Her presentation explained the work of the Māori IP Committees and their considerations of IP applications for any matauranga Māori or tikanga Māori.

Matthew and Lara's presentation focused on IP Australia's Indigenous Knowledge Group and the support it receives from subject matter experts who consider applications for any Aboriginal and/or Torres Strait Islander material. If you are interested in learning more about the relationship between Indigenous Knowledge and IP these links will get you started:

[Māori advisory committees](#)

[IP Australia Indigenous knowledge group](#)

A new website has been developed for the Board and it will soon be available at <https://www.ttipattorney.gov.au/> The usability of the website has been improved and the look and feel of the user interface has been modernised. Feedback and suggestions for updates and changes are welcome.

The Australian and New Zealand governments are seeking expressions of interest for the following positions on the Board:

- An Australian Chairperson – given three year rotation between countries
- Australian Board members (multiple)
- A New Zealand Board member

If you would like more information on the Australian opportunities, please see the Executive Intelligence Group website [here](#), and for the New Zealand vacancy please see the Ministry of Business, Innovation and Employment website [here](#).

The Board would welcome any feedback on this communicate or any of its other activities, which can be provided to mail.ttipab@ipaustalia.gov.au. To keep up to date with the Board's activities, follow us on [LinkedIn](#).

Elizabeth Hopkins

Chair