



**Australian Government**



**New Zealand Government**  
Te Kāwanatanga o Aotearoa

# Trans-Tasman IP Attorneys Board

## Privacy Policy

### Revision History

Date	Changes
24 February 2017	Policy approved
30 June 2018	Office of Legal Counsel amendments
16 March 2022	Office of Legal Counsel amendments
1 April 2022	Policy approved

## About this Policy

The *Privacy Act 1988* (Cth) (**Act**) requires entities bound by the Australian Privacy Principles (**APPs**) to have a privacy policy. This privacy policy (**Policy**) outlines the personal information handling practices of the Trans-Tasman IP Attorneys Board (the '**Board**'). The Board is a statutory body established under section 227A of the *Patents Act 1990* (Cth) and constituted under the *Patents Regulations 1991* (Cth). We are responsible for administering the regulatory and disciplinary regimes for patent attorneys in Australia and New Zealand, and trade marks attorneys in Australia.

The specific legal obligations of the Board when collecting and handling your personal information are outlined in the Act and in the APPs located in the Act. Detailed information about the Privacy Act and the APPs can be found on the website of the [Office of the Australian Information Commissioner](#) (**OAIC**).

## Who should read this Policy?

You should read this Policy if you are a:

- person who is making a complaint about a patent or trade marks attorney;
- person who is the subject of a complaint or proceeding;
- person who has provided, or is planning to provide, personal information to the Board (for e.g. in preparation for registration as a patent and/or trade marks attorney); or
- member of the Board.

## Personal Information held by the Board

The Board collects personal information of patent attorneys as part of the registration process or in relation to investigation or proceedings against patent attorneys.

The personal information the Board may collect includes:

- your name and date of birth;
- your address and contact details, such as email address, phone, and fax numbers;
- your employment details and statement of skills (where you have asked the Board to prepare such a statement);
- your educational qualifications and details of academic performance;
- character references;
- the names and addresses of registered patent or trade marks attorneys; and
- any other personal information included in a complaint or in the supporting evidence for a complaint.

### *Collecting sensitive information*

Sometimes we may need to collect sensitive information (a particular type of personal information under the Act) about you, for example, to handle a complaint or commence proceedings. This might include information about your health, racial or ethnic origin, political opinions, association memberships, religious beliefs, sexual orientation, criminal history, genetic or biometric information.

If the Board receives unsolicited personal information, it will be contained in a 'Commonwealth Record'. As such, it will be retained until it can be destroyed in accordance with the applicable National Archives of Australia Records Disposal Authority.

# Purposes of Collection, Use and Disclosure

The Board is committed to compliance with the *Act* and will only collect, hold, use and disclose personal information to carry out functions or activities under the Patents and Trade Marks legislation, including:

- *Patents Act 1990 (Cth)*;
- *Patents Regulations 1991 (Cth)*;
- *Patents Act 2013 (NZ)*;
- *Trade Marks Act 1995 (Cth)*;
- *Trade Marks Regulations 1995 (Cth)*;
- *Code of Conduct for Patent and Trade Marks Attorneys 2013*;
- *Code of Conduct for Trans-Tasman Patent and Trade Marks Attorneys 2018*; and
- Guidelines to the Code of Conduct for Trans-Tasman Patent and Trade Marks Attorneys 2018.

These functions and activities include:

- approving the academic qualifications and knowledge requirements as part of the attorney registration process, or granting exemptions from those requirements where appropriate;
- investigating complaints against attorneys;
- commencing proceedings against a registered patent or trade marks attorney; and
- anything incidental to, or conducive to the performance of any of the Board's functions under the relevant legislation.

Where required by legislation or otherwise appropriate, the Board also refers matters for decision to the Trans-Tasman IP Attorneys Disciplinary Tribunal (the '**Tribunal**'). If matters are referred to the Tribunal, your personal information may be disclosed overseas to members of the Tribunal who are New Zealand residents.

## Collection of your Personal Information

The Board mainly collects personal information directly from you. For example, the Board collects personal information via:

- Board forms;
- the Board's website;
- correspondence sent or directed to the Board;
- information supplied as part of a complaint or disciplinary proceeding; or
- information supplied by prospective attorneys as part of the approval process for academic qualifications and knowledge requirements, including information relating to applications for exemption from some or all of the knowledge requirements.

### *Indirect collection*

In the course of performing our functions, we may collect personal information (including sensitive information) about you indirectly from publicly available sources or from third parties such as:

- your authorised representative, if you have one;
- complainants, respondents to a complaint, employees/ers and witnesses; or
- the Designated Manager.

We also collect personal information from publicly available sources to enable us to handle complaints or contact stakeholders who may be interested in our work or in participating in our consultations.

### *Anonymity*

Where possible, we will allow you to interact with us anonymously or using a pseudonym (unless otherwise required by legislation). For example, if you contact our Privacy Officer with a general question, your name will not need to be provided unless it is needed to adequately handle your question. However, for most of our functions and activities we usually need your name and contact information and enough information about the particular matter to enable us to handle your application, inquiry, request, or complaint fairly and efficiently.

### *Collecting through our website*

The Board has its own website — <https://www.ttipattorney.gov.au>. There are a number of ways in which we collect information through our website:

### *Cookies*

Cookies are small data files transferred onto computers or devices by websites for recordkeeping purposes and to enhance functionality on the website. Our website uses the ga: Google Analytics cookie.

Most browsers allow you to choose whether to accept cookies or not. If you do not wish to have cookies placed on your computer, please set your browser preferences to reject all cookies before accessing our website.

### *Email lists, registrations, and feedback*

We will collect information that you provide to us when signing up to mailing lists and making an application for approval of your academic qualifications and knowledge requirements in preparation for registration as a trade marks or patent attorney, or when submitting feedback on your experience with our website.

## **Uses of personal information**

The Board uses personal information for the primary purpose for which it is collected. You will ordinarily be given information about the primary purpose of collection at the time the information is collected unless it has been provided by a third party.

Personal information is used to inform the Board's decision-making functions and activities, such as managing and approving academic qualifications and knowledge requirements, investigating complaints about attorneys; and determining whether a complaint against an attorney should proceed to the Tribunal.

# Disclosure

The Board can, and usually will, disclose personal information where:

- you have consented to the disclosure;
- you would reasonably expect that your information will be disclosed; or
- the disclosure is authorised or required by, or under, law.

Common examples of when we may disclose your personal information are outlined below. Contact details of registered patent and trade marks attorneys are published on the Board's website.

The personal information published may include:

- decisions of the Tribunal;
- name of registered patent and trade marks attorneys;
- addresses (attorneys may opt to use a business address, PO Box or other alternative address to their place of residence); and
- phone, fax and mobile numbers, email addresses and website details if the attorney wishes to have these published.

The primary purpose of this publication is to enable people to confirm the current status of attorneys on the registers of patent and trade marks attorneys.

## *Disclosure - Disciplinary proceedings of the Disciplinary Tribunal*

If the Board decides to commence proceedings against an attorney, the Board will send a notice providing details about the matter to the President of the Tribunal. The President will then establish a three-person Panel to hear the matter.

The Panel of the Tribunal publishes written decisions of completed disciplinary proceedings on the Board's website. These decisions may contain personal information about the parties involved. A copy of the decision may be provided to the prosecuted attorney, the prosecuted attorney's authorised representative or employer, the Board and the Designated Manager. For more information about the Tribunal's information-handling practices, read the [Tribunal's Privacy Policy](#).

## *Overseas recipients of personal information*

Personal information collected by the Board may be disclosed to overseas recipients. In particular, we note that some members of the Board and Tribunal are New Zealand residents and your information, including (potentially) sensitive information may be disclosed to these persons, for the purposes of investigating a complaint or conducting disciplinary proceedings against a patent or trade marks attorney.

Names of Board and Tribunal members and the names and contact details of all registered patent and trade marks attorneys are published on the Board's website, making this information available worldwide.

## *Disclosure to service providers*

The Board uses a number of service providers to whom we disclose personal information. These include legal service providers, providers that host our website servers, manage our IT and manage our human resources information. We require our service providers to only use and disclose personal information in accordance with the Act.

### *Disclosure of sensitive information*

We only disclose your sensitive information for the purposes for which you gave it to us or for directly related purposes you would reasonably expect or if you agree, for example, to handle applications in preparation for registration of patent or trade marks attorneys or complaints about the same.

### *Accidental or unauthorised disclosure of personal information*

The Board has obligations under the Act to take reasonable steps to protect the personal information it holds from misuse, interference, loss, unauthorised access, modification, or disclosure. The Notifiable Data Breach Scheme (**Scheme**), established under the Act, imposes data breach notification obligations on the Board where a data breach is likely to result in serious harm to an individual whose personal information is involved in the breach. The notification requirements under the Scheme require the Board to notify the individual whose personal information is involved in an 'eligible data breach' and the Australian Information Commissioner if it has reasonable grounds to believe that an eligible data breach has occurred – unless an exception applies. As a result, the Board has processes in place to investigate and manage any data breaches in order to contain, assess and respond to the data breach and mitigate the risk of serious harm. More information on the Scheme is available on OAIC's [Notifiable Data Breaches page](#).

## **Storage and data security**

Personal information is held securely on the Board's behalf in IP Australia's electronic and paper record-keeping systems and on a secure Google Drive. IP Australia is certified under International Quality Standard ISO 9001:2015 for key customer transactions.

IP Australia has controls in place to protect against interference with personal information by way of unauthorised access, misuse, loss, modification, or disclosure.

Please see IP Australia's Privacy Policy for further information on the way in which IP Australia will hold and store your personal information.

## **Disposal of personal information**

Storage of information (and the disposal of information when no longer required) is managed in accordance with Commonwealth records management requirements, including the *Archives Act 1983*, records authorities and general disposal authorities.

## **Access to, and correction of, personal information**

You may request access to personal information we hold about you. We will provide you with access as requested if it is reasonable and practicable to do so. There may be instances where the Tribunal may refuse your request, as discussed below.

You may request corrections to any of your personal information that the Board holds to ensure the information is accurate, up to date, complete, relevant and not misleading.

The Board must be satisfied that you are seeking access to or correction of your own personal information. We may ask you to provide verification of your identity.

This process is free of charge.

You can access or correct personal information the Board holds about you by contacting:

Email	<a href="mailto:privacy@ipaaustralia.gov.au">privacy@ipaaustralia.gov.au</a>
Telephone	1300 65 10 10 (callers within Australia)
International Callers	+61 2 6283 2999
TTY	The National Relay Service on TTY 13 36 77; or Speak and Listen on 1300 555 727 (for hearing impaired callers)
Translating & interpreting service	13 14 50 (within Australia); or +613 9268 8332 (outside Australia)
Post	Privacy Contact Officer IP Australia PO Box 200 Woden ACT 2606 Australia

### *Response to request for access or correction*

We will acknowledge your request within 5 business days.

We will provide you with a written response within 30 calendar days after receiving your request, by:

- providing access to the documents
- advising you of our decision to refuse access to or correction of documents; or
- advising you of any difficulties we have encountered in actioning your request, in which case we will provide you with an expected timeframe for finalising your request.

Access may be refused in certain circumstances where the Board is required or authorised to do so under the Act, the *Freedom of Information Act 1982* (Cth), or another Commonwealth Act that provides for access to documents or information.

## How to make a complaint

If you wish to make a complaint about how we have handled your personal information you should complain in writing. If you need help lodging a complaint, you can contact our Privacy Officer.

Email	<a href="mailto:privacy@ipaaustralia.gov.au">privacy@ipaaustralia.gov.au</a>
Telephone	1300 65 10 10 (callers within Australia)
International Callers	+61 2 6283 2999
TTY	The National Relay Service on TTY 13 36 77; or Speak and Listen on 1300 555 727 (for hearing impaired callers)
Translating & interpreting service	13 14 50 (within Australia); or +613 9268 8332 (outside Australia)

Post	Privacy Contact Officer IP Australia PO Box 200 Woden ACT 2606 Australia
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The Privacy Officer will acknowledge that your complaint has been received within 5 business days.

The Privacy Officer will usually respond to your complaint within 30 calendar days after the request is made.

The Board is committed to a fair resolution of privacy complaints and will ensure your complaint is taken seriously. You will be treated professionally and respectfully at all times.

## Privacy complaints to the Office of the Australian Information Commissioner (OAIC)

If you are dissatisfied with the way the Board handles your privacy complaint, [you may contact the OAIC](#) or you can complain to the Commonwealth Ombudsman.

### *OAIC*

Privacy complaints may be lodged electronically with OAIC using the Privacy Complaint Form on OAIC's website ([www.OAIC.gov.au](http://www.OAIC.gov.au)).

Alternatively, you can contact OAIC via:

Email: [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)

Phone: 1300 363 992

Write to: The Privacy Commissioner  
Office of the Australian Information Commissioner  
GPO Box 5218  
Sydney NSW 2001

### *Commonwealth Ombudsman*

Complaints may be lodged electronically with the Commonwealth Ombudsman's office using its online complaint form on its website (<http://www.ombudsman.gov.au/making-a-complaint>).

Alternatively, you can contact the Commonwealth Ombudsman via:

Phone: 1300 362 072

Write to the Commonwealth Ombudsman: Commonwealth Ombudsman  
GPO Box 442  
Canberra ACT 2601

Before making a complaint to the OAIC or Commonwealth Ombudsman, you should try and resolve your complaint with the Board.

## **Updates to this Policy**

We may update this Privacy Policy from time to time. Updates will be posted on our website.

## **Copy of this Policy**

If you wish to access this Policy in an alternative format or hard copy, please contact the Privacy Officer using the contact details above. We will provide the Policy to you at no cost.