



# Trans-Tasman IP Attorneys Board

## Terms of Reference

### 1. Legislative Basis

The Trans-Tasman IP Attorneys Board (Board) is an independent statutory body established under section 227A of the [Patents Act 1990](#) (Cth) (the Patents Act) in accordance with the *Arrangement Between the Government of Australia and the Government of New Zealand Relating to Trans-Tasman Regulation of Patent Attorneys*.

As a statutory body representing both the Australian and New Zealand Governments, The Board must act independently and impartially, and must give equal regard to the interests of Australia and New Zealand.

### 2. Functions

The role of the Trans-Tasman IP Attorneys Board (the Board) is set out in section 227A(2) of the Patents Act, and includes to:

- determine the academic qualifications required to become a trans-Tasman patent attorney, and/or an Australian trade marks attorney;
- determine the knowledge requirements for becoming a patent or trade marks attorney;
- provide exemptions from knowledge requirements for patent and trade marks attorneys based on prior study;
- set guidelines for continuing professional education for patent and trade marks attorneys;
- maintain the standards of professional conduct expected of patent and trade marks attorneys, including to review the Code of Conduct as needed;
- conduct disciplinary matters including investigating complaints and commencing proceedings before the Disciplinary Tribunal;
- accredit university courses suitable for meeting the knowledge requirements for becoming a patent or trade marks attorney; and
- do anything incidental to or conducive to the performance of any of the above functions.

Based on its authority to do anything incidental or conducive to the performance of its legislative functions, in addition to fulfilling its obligations under the regulations the Board is involved in a variety of activities aimed at supporting the quality and professionalism of IP attorneys across Australia and New Zealand. This includes activities such as developing practice notes, facilitating Continuous Professional Education (CPE), providing information and updates for the profession, and various other outreach activities.

### 3. Vision

The Board exists to advance the IP ecosystem by serving rights holders. It does that by supporting IP attorneys by elevating the integrity, capability, and visibility of the IP attorney profession.

The Board achieves this purpose through:

- Proactiveness: The Board anticipates issues before they emerge. The Board advises and regulates the profession to keep them ahead of issues and trends.
- Transparency: The Board is explicit about its activities, thinking and priorities.
- Responsiveness: The Board listens and responds to the needs of the profession, and what stakeholders need from the Board and the profession.
- Advocacy: The Board advocates for the interests of rights holders, and for the profession as a crucial contributor in protecting these interests, as partners in the IP ecosystem.

## 4. Membership

The Patents Act provides for a minimum of seven and a maximum of ten Board members, consisting of:

- Chair (appointed for a maximum of three years);
- Director General of IP Australia (ex-officio);
- New Zealand Commissioner of Patents (ex-officio);
- at least two members nominated by the New Zealand Minister responsible for patents (appointed for a maximum of five years); and
- at least two other members (appointed for a maximum of five years).

All members (excluding ex-officio members) are appointed by the Australian Minister for Industry, Energy and Emissions Reduction based on the eligibility requirements set out in the Patents Act, in consultation with the relevant New Zealand minister. New Zealand members are nominated by the relevant New Zealand minister, on advice from the Ministry of Business, Innovation and Employment.

Members are typically appointed for a term of three years, and can be reappointed for a second term in order to ensure the Board's membership includes members with a depth of experience serving on the Board.

The Chair is appointed for a single three-year term, alternating between an Australian and a New Zealand resident appointee.

## 5. Subcommittees

The Board currently has four subcommittees:

- Accreditation
- Discipline
- Exemptions
- Qualifications

Each subcommittee is led by a convenor who is responsible for managing its operations, convening any necessary subcommittee meetings, and reporting to the full Board. Additional subcommittees can be formed to address specific issues as needed.

## 6. Operations

- The Board meets formally three times per year, at approximately four-month intervals.

- The Chair is responsible for the conduct of Board meetings and must preside at all meetings of the Board at which they are present. In the absence of the Chair, the members present must appoint one of themselves to preside.
- A quorum is formed by a majority of members, and must include at least one member each from Australia and New Zealand.
- At the start of each meeting, members must declare any real, potential, or perceived conflicts of interest they may have in relation to matters for discussion. The Chair will consider the nature of the conflict and determine the appropriate action, which may include the member abstaining from voting, abstaining from discussion, or leaving the meeting during discussion of the matter.
- Decisions may be made by a majority vote. However, the Board endeavours to make decisions by consensus wherever possible. In the event of a vote, the Chair or a member who presides at a meeting has a deliberative vote and, in the event of equality to votes, also has a casting vote.
- The Chair may call additional meetings at any time as needed to address urgent business, by means of providing notice in writing to the members. If necessary, the Board may discuss and make decisions on urgent matters out-of-session by electronic means.
- The outcomes of all formal meetings will be recorded in the minutes, which will be ratified and adopted as a true record of proceedings at the following meeting.
- Secretariat support is provided by IP Australia.