

COMMONWEALTH OF AUSTRALIA

**Patents Act 1990
Patents Regulations 1991, Chapter 20**

**Trade Marks Act 1995
Trade Marks Regulations 1995, Part 20**

TRANS-TASMAN IP ATTORNEYS BOARD and POOLE

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Introduction

1. On 29 August 2025, pursuant to regulation 20.35 of the *Patents Regulations 1991* (Cth) (**Regulations**), the Trans-Tasman IP Attorneys Board (**Board**) issued a notice of commencement of disciplinary proceedings against registered trade marks attorney, Ms Sarah Ainslie Poole (**Ms Poole**) to the President of the Tribunal (**Notice**).¹ A copy of the Notice was provided to Ms Poole on the same date. The Notice particularised one charge of unsatisfactory professional conduct, within the meaning of regulation 20.32 of the Regulations, by reason of:
 - (i) a failure to inform her client, Sugrañes, S.L.P., in a timely manner, of the commencement of an application for partial removal on the basis of non-use of Trade Mark Registration 1439143 (International Registration 1083687);
 - (ii) a failure to obtain instructions to file a Notice of Intention to Oppose the application to removal referred to at (i) above;
 - (iii) a failure to obtain instructions to file a Statement of Grounds and Particulars to support the Notice of Intention to Oppose the non-use action referred to at (ii) above;
 - (iv) a failure to obtain instructions to request a joint cooling off period;
 - (v) a failure to inform her client, in a timely manner, of a co-existence settlement proposal received from the removal applicant;
 - (vi) a failure to inform her client of the deadline to file evidence in support of the Opposition to removal, referred to at (i) above, in a timely manner, requiring her client to apply for an extension of time; and
 - (vii) by reason of (i) to (vi) above, a failure to comply with section 15 (Diligence) of the *Code of Conduct for Trans-Tasman Patent and Trade Marks Attorneys 2018*.
2. On 2 September 2025, the Secretariat of the Tribunal advised the Board and Ms Poole that the President of the Tribunal had convened a panel in accordance with reg 20.36(3) of the Regulations.

¹ Part 8 of Chapter 20 (Discipline) of the *Patents Regulations 1991* (Cth) applies to a registered trade marks attorney by operation of regulation 20.15 of the *Trade Marks Regulations 1995* (Cth).

3. As noted below, Ms Poole has pleaded guilty to the charge of unsatisfactory professional conduct as particularised in the Notice. Accordingly, the matter proceeded in relation to the penalty to be imposed on Ms Poole arising from her unsatisfactory professional conduct.
4. Despite orders allowing for the parties to do so, neither party filed formal evidence. The Board filed a tender bundle which included the Poole Declaration discussed below.
5. The Tribunal received the following written submissions:
 - Ms Poole's Submissions as to Penalty dated 15 December 2025;
 - The Board's Submissions dated 21 January 2026;
 - Ms Poole's Further Submissions as to Penalty dated 6 February 2026;
 - The Board's Further Submissions dated 10 February 2026.
6. The matter was heard in Canberra on 12 February 2026. Mr Jackson Wherrett of counsel instructed by Tim Webb, Clayton Utz appeared on behalf of the Board. Ms Poole represented herself.

Background

7. The Board and Ms Poole have agreed on a Statement of Agreed Facts filed on 11 December 2025 (**SOAF**). For the purposes of this proceeding only, the parties have agreed that these facts are not to be disputed.
8. The SOAF includes the following matters:
 - a. At all material times, Ms Poole was a registered trade marks attorney and the managing director of Marquette Intellectual Property Pty Ltd ACN 605 010 660 (**Marquette IP**). On 23 August 2021, Marquette IP was registered as an incorporated trade marks attorney with Ms Poole listed as the registered trade marks attorney director of the company. On 4 December 2024, a Registrar of the Federal Court of Australia ordered that Marquette IP be wound up in insolvency and that Robert Woods and Glen Kanevsky, registered liquidators, be appointed liquidators of Marquette IP.
 - b. At all material times, Ms Poole was also the managing director of Marquette IP Pty Ltd ACN 615 439 739. On 11 April 2025, Marquette IP Pty Ltd was

registered as an incorporated trade marks attorney with Ms Poole listed as the registered trade marks attorney director of the company.

- c. From on or about 2 May 2019 to on or about 16 October 2024, Marquette IP was recorded on the Trade Marks Office's (**TMO**) records as the address for service for Australian Trade Marks Registration 1439143 (International Registration 1083687) (**Trade Mark Registration**) which was then registered in classes 25 and 35, in the name of Denier, S.L.
- d. On 11 March 2021, Pedro Sugrañes was recorded as the International Registration contact for the Trade Mark Registration. On 28 October 2021, the International Registration contact for the Trade Mark Registration was changed to Sugrañes, S.L.P., a law firm based in Barcelona, Spain. Sugrañes, S.L.P. engaged Marquette IP as the address for service for the Trade Mark Registration.
- e. On 2 June 2023, the TMO received an application filed by Sajen Legal on behalf of Angel Marinov for partial cessation of protection of the Trade Mark Registration, on the basis of non-use, under section 92(4)(b) of the *Trade Marks Act 1995* (Cth) (**Cessation of Protection Application**). The Cessation of Protection Application sought removal of all services for which the Trade Mark Registration was registered in class 35.
- f. On 5 June 2023, the Cessation of Protection Application was advertised in the Australian Official Journal of Trade Marks. On the same date, the TMO sent a notification of the filing of the Cessation of Protection Application to an online services account in the name of Ms Poole of Marquette IP, hosted on ipaustralia.gov.au (**Online Services Account**). On 6 June 2023, that notification was accessed by Ms Poole via the Online Services Account.
- g. On 3 August 2023, the TMO received a notice of intention to oppose the Cessation of Protection Application, filed by Ms Poole of Marquette IP on behalf of Denier, S.L (**Opposition to Cessation of Protection Application**).
- h. On 4 September 2023, the TMO received a Statement of Grounds and Particulars in support of the Opposition to Cessation of Protection Application, filed by Ms Poole of Marquette IP on behalf of Denier, S.L.

- i. On 9 October 2023, the TMO received a notice of intention to defend the Opposition to Cessation of Protection Application, filed by Sajen Legal on behalf of Angel Marinov.
- j. On 20 October 2023, the TMO sent a notification of filing of the notice of intention to defend to the Online Services Account. On the same day, that notification was accessed by Ms Poole via the Online Services Account.
- k. On 19 January 2024, the TMO received a joint application for a cooling-off period. The cooling-off period application was signed by both Ms Poole and Mr Sean Grierson of Sajen Legal.
- l. On 19 July 2024, the cooling-off period ended. The TMO fixed 20 October 2024 as the date by which Denier, S.L was required to file evidence in support of the Opposition to Cessation of Protection Application.
- m. On 7 October 2024, Ms Poole sent an email to Sugrañes, S.L.P. In that email, Ms Poole informed Sugrañes, S.L.P. for the first time of the Cessation of Protection Application, the Opposition to Cessation of Protection Application, the Statement of Grounds and Particulars and the evidence in support deadline of 20 October 2024. Ms Poole also informed Sugrañes, S.L.P. for the first time of a co-existence proposal made by Sajen Legal on behalf Angel Marinov.
- n. On 16 October 2024, the TMO received a request from Oxygene IP, a patent and trade marks attorneys firm based in Victoria, Australia to record itself as the address for service for the Trade Mark Registration. On 17 October 2024, the TMO received a request from Oxygene IP to record itself as the address for service for Denier, S.L in respect of the Opposition to Cessation of Protection Application.
- o. On 21 October 2024, the TMO received an application for an extension of the time to file evidence in support of the Opposition to Cessation of Protection Application filed by Oxygene IP, on behalf of Denier, S.L.
- p. In support of that application, Oxygene IP filed evidence indicating that, prior to the 7 October 2024 email from Marquette IP, neither Sugrañes, S.L.P. nor the relevant staff of Denier, S.L had knowledge of the Cessation of Protection Application, the Opposition to Cessation of Protection

Application, the Statement of Grounds and Particulars, the request for cooling off, or any negotiations between Marquette IP and the lawyers for Angel Marinov, or the evidence in support deadline of 20 October 2024.

- q. By email sent on 1 November 2024, Mr Adrian Richards, Supervising Hearing Officer at the TMO, notified the Secretary of the Board that the Oppositions and Hearings Section at the TMO had “...*recently become aware of several potential conduct issue[s] in relation to [Ms Poole]...*”.
- r. By email on 27 November 2024, the Secretary of the Board wrote to Ms Poole referring to the information that the Board had received from the TMO and asking Ms Poole to provide a response to the information by 6 December 2024.
- s. By letter sent on 6 December 2024, Ms Poole wrote to the Secretary of the Board stating that “*I acknowledge that actions were taken without explicit instructions, and I take full responsibility for the measures adopted under these circumstances. These were undertaken with the genuine belief that they were necessary to protect the client’s interests while ensuring compliance with procedural deadlines.*”
- t. Ms Poole provided a signed declaration to the Board made on 24 January 2025 (**Poole Declaration**).
- u. Since 13 February 2025, the Trade Mark Registration has been registered in class 25 only.
- v. On 2 May 2025, the Board informed Ms Poole that it had resolved to refer the matter to the Tribunal.
- w. On 13 October 2025, Ms Poole indicated that she “*wish[es] to plead guilty*” to the one charge of unsatisfactory professional conduct as particularised in the Notice.

Evidence

- 9. The Poole Declaration is Ms Poole’s only evidence filed in this proceeding. Ms Poole appeared in person at the hearing and answered questions from the Tribunal Panel. She was not under oath or affirmation and was not cross-examined by the Board.

10. Regulation 20.36B(3) of the Regulations provides that the Panel is not bound by the rules of evidence but may be informed on any matter in the manner it chooses. As noted above, Ms Poole filed two sets of written submissions to which the Board responded and adopted certain admissions made by Ms Poole therein. The parties also jointly filed the SOAF.
11. The Tribunal treats the Poole Declaration, Ms Poole's answers at the hearing, the SOAF and factual matters put in the parties' submissions as being informative, whilst giving greatest weight to those matters which have been expressly agreed (as in the SOAF) or adopted by the parties (such as the admissions in Ms Poole's written submissions) or which are otherwise uncontroversial.²

Patent Regulation 20.45 and applicable principles

12. Regulation 20.45 of the Regulations provides the penalties for unsatisfactory professional conduct, as follows:

20.45 Penalties—unsatisfactory professional conduct

- (1) Subject to subregulation (2), if a Panel of the Disciplinary Tribunal finds a registered patent attorney guilty of unsatisfactory professional conduct, it may:
 - (a) suspend the attorney's registration as a patent attorney for a period of not more than 12 months; or*
 - (b) administer a public reprimand to the attorney.**
- (2) The Panel may, in addition to suspending a registered patent attorney's registration under subregulation (1), also impose conditions on the attorney's return to the register after the period of suspension has elapsed.*
- (3) Without limiting subregulation (2), the conditions that the Panel may impose include either or both of the following:
 - (a) that the attorney undertake additional continuing professional education, as specified by the Panel;*
 - (b) that the attorney work for a period of time, not exceeding 2 years, under the supervision of a person who has been a registered patent attorney for a period of not less than 5 years.**

13. The Board submitted that regulation 20.45(2) does not confer power on the Tribunal to impose conditions without any suspension of registration, as had been submitted by Ms

² *Ghobashy v Medical Board of Australia* [2025] NSWCATOD 157 [9].

Poole. Under reg 20.45(1), the Panel can either suspend the attorney's registration for a period of not more than 12 months, or administer a public reprimand. That subregulation is expressed to be "[s]ubject to subregulation (2)". Subregulation (2) provides that the Panel may, *in addition to* suspending an attorney's registration, *also* impose conditions on the attorney's return to the register *after the period of suspension has elapsed*. (emphasis added). The Board submitted that the language of regulation 20.45(2) makes it clear that conditions can only be imposed in addition to a suspension.

14. For the reasons detailed further below, the Tribunal considers that a suspension of the Attorney's registration is warranted in this case. Accordingly, the construction of reg 20.45 advanced by the Board does not need to be determined in this proceeding. However, the Tribunal notes that, on its terms, reg 20.45 does not appear to empower the Tribunal to impose conditions (such as mandatory continuing legal education) without also suspending the Attorney's registration.
15. The Board submitted the following summary of the general principles and relevant factors in relation to the imposition of penalties for unsatisfactory professional conduct. There was no apparent dispute as to these principles.

"The general principles which must be applied when considering penalties are similar to those considered by tribunals and courts with respect to legal practitioners.³ The relevant principles have been summarised as follows:⁴

- (a) the power to discipline a practitioner is protective in character and does not involve punishment, but should be exercised in a manner '*likely to achieve the maintenance of a high standard of conduct within the profession which will continue its good reputation, and so protect, not only the future of the profession, but also protect its clients from harm*'.
- (b) the penalty involves no retributive element or intention to express outrage, but should be no more than necessary to '*maintain professional discipline and high standards of conduct*'.
- (c) the protection of the public is not confined to the protection of the public against further default by the practitioner in question. It extends also to the protection of the public against similar defaults by other practitioners and has, in that sense, the purpose of marking the seriousness of what the practitioner has done.
- (d) suspension or cancellation is a course that should be adopted only if it is necessary for the public protection. The public needs to be protected

³ *Professional Standards Board for Patent & Trade Marks Attorneys v Patent & Trade Marks Attorneys Disciplinary Tribunal* [2002] AATA 728 (**Professional Standards Board**) [61].

⁴ *Professional Standards Board* [62]-[66]; *Re Blenkinship* (unreported, Patents and Trade Marks Attorneys Disciplinary Tribunal, 23 February 2012) (*Blenkinship*) [127].

from delinquents and wrong-doers in the profession. It also needs to be protected from ‘*seriously incompetent professional people who are ignorant of basic rules or indifferent as to rudimentary professional requirements. Such people should be moved from the register... at least until they can demonstrate that their disqualifying imperfections have been removed.*’

Factors that are relevant to the determination of an appropriate penalty include:

- (a) the nature and seriousness of the conduct found to constitute unsatisfactory professional conduct, including whether it relates to an essential feature of the work of a registered attorney;⁵
- (b) whether the patent attorney has acknowledged the conduct and co-operated with the Board’s enquiries;⁶
- (c) whether the conduct resulted in an adverse result for the client, and whether the attorney has taken steps to address the conduct and ameliorate its effects;⁷ and
- (d) whether the attorney has previously engaged in unsatisfactory professional conduct or professional misconduct.⁸

16. These factors are considered in detail below.

The nature and seriousness of the conduct

17. The Tribunal considers that Ms Poole’s misconduct was objectively serious.

18. There were 16 months between the Cessation of Protection Application being filed and Ms Poole making any contact with her client. In that time, Ms Poole filed the Opposition to Cessation of Protection Application, filed the Statement of Grounds and Particulars, and applied for a cooling off period. She also had negotiations with Sajen Legal about a co-existence proposal. All of these actions were taken without instructions.

19. Ms Poole acknowledged in her written submissions that her conduct was “*unsatisfactory*” and that she took steps without explicit instructions “*in a manner that would not be regarded as ‘best practice’ or otherwise satisfactory professional*

⁵ *Blenkinship* [129]. Similarly, in *Re Massang* (unreported, Patent and Trade Marks Attorneys Disciplinary Tribunal, 24 November 2009) (*Massang*) the Disciplinary Tribunal held ‘*[e]ach case must be considered first and foremost on its own facts and circumstances, including the overall seriousness of the unsatisfactory conduct and any relevant mitigating factors*’ at [16].

⁶ *Re Macauley* (unreported, Patents and Trade Marks Attorneys Disciplinary Tribunal, 19 February 2016) (*Macauley*) [109]; *Re Schulze and Boehm* (unreported, Patent and Trade Marks Attorneys Disciplinary Tribunal, 23 February 2012) (*Schulze*) [139].

⁷ *Professional Standards Board* [62]-[66]; *Macauley* [116].

⁸ *Macauley* [111]; *Schulze* [140]; *Massang* [19]; *Blenkinship* [131].

conduct". Ms Poole accepted that her conduct was "*objectively serious*", and that she "*knew that [she] had failed to diligently manage and attend to the file*".

Whether the trade marks attorney has acknowledged the conduct and co-operated with the Board's enquiries

20. The Tribunal notes that Ms Poole has acknowledged her conduct and accepted that it was unsatisfactory. However, for the reasons detailed below, the Tribunal considers that Ms Poole's various explanations (both in the Poole Declaration and her written submissions) for her conduct are unsatisfactory. In particular, Ms Poole's explanations do not properly explain the long delay in notifying the client, and why a number of substantive steps were taken without instructions.
21. The Poole Declaration states that, on 3 August 2023, Marquette IP's⁹ docketing software provider informed her that the current system was being acquired by another company. She states that the firm used the new system for a few months until they decided to move to another system in January 2024. The transition to the new system was completed in August 2024.
22. Ms Poole's evidence did not explain how these docketing issues caused her failure to obtain instructions. Ms Poole was still able to file a Statement of Grounds and Particulars on 3 September 2023, a month after the transition to the new system. Ms Poole was also still able to access the notice of intention to defend on 20 October 2023, and file a joint application for a cooling off period on 19 January 2024. Further, the Cessation of Protection Application was filed on 2 June 2023 and accessed by Ms Poole via the Marquette IP Online Services Account on 6 June 2023, which was before any technology issues had arisen.
23. The Poole Declaration also referred to significant health challenges experienced by Ms Poole in March - April 2023 and a recovery period which extended over several months. None of this is corroborated by the usual documents (medical reports, hospital admission forms, etc). In any event, it is not clear how those health issues accounted for Ms Poole's failure to obtain instructions given that Ms Poole filed the Opposition

⁹ The Poole Declaration refers throughout to Marquette IP Pty Ltd (ACN 615 439 739) (defined as "my Company"). Marquette IP Pty Ltd has been the operating company for Ms Poole's practice since April 2025, following the liquidation of Marquette Intellectual Property Pty Ltd (ACN 605 010 660). To the extent that the Poole Declaration explains Ms Poole's conduct during the relevant period of 2023-2024, the operating company must have been Marquette Intellectual Property Pty Ltd (ACN 605 010 660) (in the Statement of Agreed Facts and in this decision, defined as "Marquette IP").

to Cessation of Protection Application on 3 August 2023, the Statement of Grounds on 4 September 2023, and the application for a cooling off period on 19 January 2024.

24. The Poole Declaration also refers to Marquette IP experiencing “*key staff departures*”. However, any causal relationship between these departures and Ms Poole’s conduct was not properly explained. In particular, it is not clear why those staff departures prevented Ms Poole from obtaining instructions or at least updating her client in a timelier manner. Further, the Poole Declaration provides no explanation at all for the period between 19 January 2024 and 7 October 2024.
25. There was also a lack of candour in Ms Poole’s communication with her client. When Ms Poole advised Sugrañes, S.L.P. about the Cessation of Protection Application on 7 October 2024, she said that “*due to [their] recent office relocation, notification of this non-use removal attack has been received late by [their] office*”. This explanation to the client was, to say the least, inaccurate as the notification of the Cessation of Protection Application was not “*received late*”. Furthermore, the “*recent office relocation*” was not the explanation subsequently provided by Ms Poole.
26. Ms Poole submitted that she has “*take[n] steps to seek to stabilise the practise*”. However, the nature of these steps was expressed at a very high level and lacked detail.

Whether the conduct resulted in an adverse result for the client, and whether the attorney has taken steps to address the conduct and ameliorate its effects

27. It should not be controversial that Ms Poole’s conduct caused prejudice to her client.
28. If Ms Poole had notified her client of the removal application in a timely manner, searches could have been immediately made of records relating to use of the trade mark in the relevant period rather than 16 months later.
29. Ms Poole’s preparation and filing of the Statement of Grounds and Particulars without instructions risked making misrepresentations concerning the use of the mark in Denier, S.L.’s name. It also risked omitting significant particulars, which had the potential to prejudice the client’s position if unparticularised matters were sought to be raised at some later stage or if defences which might have been available (such as obstacles to use) were not pleaded at all.
30. Ms Poole’s conduct also deprived Denier, S.L. of resolving the matter in other ways in the 16-month period after the filing of the Cessation of Protection Application, such as through negotiations.

31. Denier, S.L was also adversely affected by having to change representation shortly before the evidence deadline and seek an extension of time to file its evidence.
32. Ms Poole's conduct also caused prejudice to the removal applicant and IP Australia as a result of the delay in determining the Cessation of Protection Application, caused by Ms Poole's failure to take instructions.
33. In her written submissions, Ms Poole accepted that her conduct had an adverse impact on her former client. However, she submitted that her conduct did not affect the ultimate outcome "*since the client was not positioned to provide evidence of the Class 35 service offering in Australia because it did not possess a headquarters or physical operation*". The Tribunal does not find this reasoning to be relevant in the assessment of Ms Poole's conduct for the following reasons.
34. First, as noted by the Board, it is not apparent why an absence of a physical operation in Australia would indicate an absence of any relevant use of the trade mark in Australia, given the electronic nature of modern commerce. It also ignores the "authorised user" provisions under s 26 of the Act.
35. Secondly, and fundamentally, even if an inference of non-use might be made, it does not justify Ms Poole's failure to report the non-use application to the registered owner and seek appropriate instructions.
36. At the hearing, the Board provided an extract from the Register of Trade Marks for the Registered Trade Mark which indicated that, ultimately, no opposition to the Cessation of Protection Application was lodged and hence class 35 was removed from the registration. However, the Board submitted, and the Tribunal agrees, that it cannot be inferred from the fact that the registrant did not ultimately oppose the application that the application had no case on the merits. There may be many reasons why the Cessation of Protection Application was not opposed.

Whether the attorney has previously engaged in unsatisfactory professional conduct or professional misconduct

37. The SOAF also addresses a previous complaint against Ms Poole. By letter dated 5 August 2022, a Ms Bianca Dudau, who had engaged Ms Poole to file a trade mark application, wrote to the Board making a complaint against Ms Poole because of an unreasonable delay in Ms Dudau being advised of an adverse examiner's report.

38. By letter dated 8 May 2023, the Board indicated to Ms Poole that it had determined on the basis of Ms Dudau's complaint that Ms Poole's unreasonable delay in advising her client of the receipt of an adverse examination report was likely to be found by the Tribunal to constitute unsatisfactory professional conduct. The Board further stated that it had exercised its discretion not to commence proceedings against Ms Poole before the Tribunal, however the Board noted that it was “*expected that [Ms Poole] will pay closer attention to the 'Diligence' requirement under the Code [of Conduct], and undertake work in a timely manner, in the future.*”

39. In her written submissions, Ms Poole admitted, in relation to the Dudau complaint, that:

“ ... I do not have an unblemished record in the time that I have been operating as an attorney. I have previously failed to progress matters in a timely and diligent manner during the time that I have been operating as Managing Director of Marquette IP and on this occasion the client did complain as to the delay in reporting an Adverse Examination Report.”

40. Notwithstanding that there was no formal finding of unsatisfactory professional conduct in relation to Ms Dudau's complaint, Ms Poole's conduct in relation to the Dudau matter and the Board's reminder of the requirement for diligence, are relevant to the Tribunal's assessment of penalty.

41. In particular, the Tribunal notes that the Board's warning to Ms Poole was given on 8 May 2023 and the Cessation of Protection Application was filed 2 June 2023, only a matter of weeks later. Ms Poole's lack of diligence therefore commenced less than one month after the Board's warning and continued for 16 months.

42. The Tribunal considers that Ms Poole's apparent failure to have any regard to the Board's previous warning to be a serious matter that has a significant impact on the assessment of penalty.

Tribunal's conclusions

43. The Tribunal considers that a period of suspension is necessary for the protection of the public. Ms Poole fell well short of the standard of competence, diligence and behaviour that a member of the public is entitled to expect of an attorney. There has been a clear breach of section 15 of the Code of Conduct, since Ms Poole did not act “*on the instructions of a client*” or “*inform the client ... in a timely manner of the registered attorney's inability to do so*”.

44. Ms Poole displayed either a level of ignorance of, or a lack of proper regard for, the basic rules governing the relationship between a trade marks attorney and their client, namely the requirement to act only on instructions except in urgent circumstances and in that event to update the client promptly. Given the warning that she had received from the Board in relation to Ms Dudau's complaint, she also demonstrated a lack of insight into the seriousness of her behaviour and the need to be candid with the Board (and her client) from the very beginning about what occurred and why it occurred.
45. The Board submitted that the Tribunal should suspend Ms Poole's registration as a trade marks attorney for a period of 6 weeks under reg 20.45(1)(a) of the *Patents Regulations* and impose conditions under reg 20.45(2), namely undertaking extra Continuing Professional Education and providing the Board with a risk management plan.
46. Ms Poole countered that, as she was a sole practitioner, “[a]ny period of suspension (be that a suspension 6 days, 6 weeks or otherwise 6 months) poses to have a material impact on the ongoing carriage of such surrounding matters for the balance of clients of Marquette IP”, and “a suspension would attract the need to effect an entire transfer of all client matters urgently into the care and carriage of another attorney firm”.
47. The Tribunal accepts that a suspension may have a financial impact on Ms Poole and her firm. However, a trade marks attorney cannot avoid the appropriate sanction for their admitted unsatisfactory professional conduct on the basis that they are a sole practitioner, or that the suspension will cause financial harm to the firm. The Tribunal agrees with the Board's submission that “*In those circumstances, where there are admitted deficiencies in her previous practice, there is an even greater justification to protect the public with a sanction that includes a suspension.*” The Tribunal is mindful of the interests of the remaining clients of Ms Poole's firm. As discussed further below, the orders of the Tribunal include measures addressing this issue.
48. Taking all of the above into account and in order to the maintain professional discipline and high standards of conduct expected of the trade marks attorney profession, the Tribunal considers that a suspension of Ms Poole's trade marks attorney registration is warranted with conditions. Accordingly, the Tribunal directs that:
1. Ms Poole is guilty of unsatisfactory professional conduct by her failure to comply with section 15 (Diligence) of the *Code of Conduct for Trans-Tasman Patent and Trade Marks Attorneys* 2018.

2. Ms Poole's registration as a trade marks attorney be suspended for a period of ten (10) weeks from the date of this decision.
3. Ms Poole must:
 - a. By no later than 3 business days after the suspension takes effect, notify her clients with whom she has active matters of the following:
 - i. the suspension of Ms Poole's registration as a trade marks attorney and the period of that suspension;
 - ii. the active matters that Ms Poole (either directly or via Marquette IP Pty Ltd (ACN 615 439 739)) has with the client;
 - iii. a brief description of what work (if any) Ms Poole considers might need to be done on each active matter during the period of suspension; and
 - iv. that the Trans-Tasman IP Attorneys Board provides a list of registered trade marks attorneys at <https://www.ttipattorney.gov.au/> if the client needs to identify an alternative trade marks attorney to assist.
 - b. By no later than 5 business days after the suspension takes effect, provide a statutory declaration to the Board proving that such notifications have been given.
 - c. During the period of suspension, notify any person that requests that she undertake trade marks work (whether an existing client or a prospective client), and any client for which a matter becomes active, of the following:
 - i. the suspension of Ms Poole's registration as a trade marks attorney and the period of that suspension; and
 - ii. that the Trans-Tasman IP Attorneys Board provides a list of registered trade marks attorneys at <https://www.ttipattorney.gov.au/> if the client needs to identify an alternative trade marks attorney to assist; and
 - iii. by no later than 5 business days after the period of suspension has elapsed, if applicable, provide a statutory declaration to the Board proving that any such notifications were given.

4. Ms Poole's re-registration as a trade marks attorney be conditional upon her having:
 - a) completed to the satisfaction of the Board a further 20 hours of Continuing Professional Education, including 10 hours addressing "client management" and "practice management" topics, in addition to the existing statutory requirements.
 - b) prepared and submitted a risk management plan to the Board which must be to the satisfaction of the Board and which must then be complied with by Ms Poole.
 5. Ms Poole must proactively advise the Board of the outcome of the liquidation of Marquette Intellectual Property Pty Limited.
49. At the hearing, there was a discussion about the meaning of "active matters". It was agreed that "active matters" would include any files where trade marks applications had been filed and were undergoing prosecution. It also included files where the trade marks application had been accepted but was still within the period for filing Notices of Opposition. The term does not include files where the trade marks application has proceeded to registration and (apart from the payment of renewal fees) there are no post grant procedures (such as removal proceedings) contemplated or commenced. In assessing whether a file is an "active matter", Ms Poole should exercise a conservative, cautious approach. In other words, if there was any doubt, the appropriate course would be to notify the client.
50. The Tribunal acknowledges that the ten (10) week period of suspension is longer than the six week period sought by the Board. The unsatisfactory professional conduct that Ms Poole is guilty of amounts to a total failure to adhere to section 15 (Diligence) of the *Code of Conduct*. Ms Poole failed to carry out her work as a registered attorney in relation to the Cessation of Protection Application. Instead, she carried on a charade of attorney work for some sixteen months. In comparable cases involving unsatisfactory professional conduct arising from communication failures, the Tribunal took into account the practitioner's length of experience and standing in the profession and their work circumstances. Also, in those cases, an unblemished record was taken into account.¹⁰

¹⁰ *Macauley* at [111] – [112]; *Blenkinship* at [131]; see also *Schulze* at [140].

51. Ms Poole did not provide evidence of her professional experience or standing. She has, however, admitted a blemished record in her time as an attorney. As to this, the fact that Ms Poole has been the subject of a prior diligence complaint and was warned by the Board less than one month before her unsatisfactory professional conduct commenced, strongly suggests that this time a suspension is in the public interest. It is also in the public interest that during the suspension Ms Poole undertake the considerable additional CPE and the preparation of the risk management plan. The Tribunal's view is that a ten (10) week suspension is needed to achieve these outcomes.

6 March 2026

Siobhán Ryan KC

Benjamin Fitzpatrick

Stuart Green