



Trans-Tasman IP Attorneys Board

Privacy Policy

Revision History

Date	Changes
24 February 2017	Policy approved
30 June 2018	Office of Legal Counsel amendments

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. 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.

Purposes of Collection

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*.

The Board will only collect the personal information needed to perform its functions and to undertake its activities. 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

At all times, we try to only collect the information we need for the particular function or activity we are carrying out.

The main way the Board collects personal information about you is when you give it to us. 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.

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.

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 fairly and efficiently handle your application, inquiry, request or complaint.

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 record-keeping 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 is also published in the Australian Official Journal of Patents, and/or the Australian Official Journal of Trade Marks, and 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.

To protect the personal information we disclose we:

- enter into a contract or MOU which requires the service provider to only use or disclose the information for the purposes of the contract or MOU; and
- include special privacy requirements in the contract or MOU, where necessary.

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.

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 Govdex. 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

Under the Act (APPs 12 and 13) you have the right to ask for access to personal information that we hold about you, and ask that we correct that personal information. You can ask for

access or correction by contacting our Privacy Officer, who will confirm receipt of your request in 5 days and must respond within 30 days. If you ask, we must give you access to your personal information, and take reasonable steps to correct it if we consider it is incorrect, unless there is a law that allows or requires us not to.

We will ask you to verify your identity before we give you access to your information or correct it, and we will try to make the process as simple as possible. If we refuse to give you access to, or correct, your personal information, we must notify you in writing setting out the reasons.

If we make a correction and we have disclosed the incorrect information to others, you can ask us to tell them about the correction. We must do so unless there is a valid reason not to.

If we refuse to correct your personal information, you can ask us to associate with it (for example, attach or link) a statement that you believe the information is incorrect and why.

You also have the right under the *Freedom of Information Act 1982* to request access to documents that we hold and ask for information that we hold about you to be changed or annotated if it is incomplete, incorrect, out-of-date or misleading.

If your request requires a significant number of documents or requires consultation with other parties, we may ask you to make a request under the *Freedom of Information Act 1982*, in order to provide a clear structure for our response to your request.

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.

If the Privacy Officer receives a complaint from you about how we have handled your personal information, the Privacy Officer will determine what (if any) action should be taken to resolve the complaint.

The Privacy Officer will assess and handle complaints about the conduct of a Board Member using the APS Values and Code of Conduct and the guidelines issued by the Australian Public Service Commission.

The Privacy Officer will respond to your complaint within 30 days.

We are 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.

How to Contact Us

You can contact our Privacy Officer by:

Email:	privacy@ipaaustralia.gov.au
Telephone:	02 6283 2345
Post:	Privacy Officer Office of Legal Counsel IP Australia PO BOX 200 Woden 2606 ACT

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).

Alternatively, you can contact OAIC via:

Email: 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

Before you make a complaint with the OAIC, you must try to resolve the complaint with the Board.

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, you should try and resolve your complaint with the Board.

Updates to this Policy

This Policy will be reviewed annually, or more frequently as required, including when the OAIC guidance material is revised, legislative amendments are made to the Act or when our information handling practices change.

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.