

PRACTICE NOTE
From the Designated Manager

Continuing Professional Education (CPE) Audit 2012-13

To all registered patent attorneys and trade marks attorneys:

Each year, a minimum of 50 registered patent and/or trade marks attorneys are audited for compliance with CPE obligations as set out in the Patent and Trade Marks Regulations. The audit of the 2012-13 year was recently completed.

From the audited sample, it would appear that most attorneys are taking seriously the requirement to engage in CPE in a meaningful way, and are doing so primarily with the genuine intention of maintaining and improving their professional skills, rather than merely to meet the legal requirements.

However, the quality of some returns was problematic. The key issue appeared to be poor record keeping of CPE activities and incoherent presentation of the evidence of those activities, rather than failure to undertake them. Please be aware that adequate records must be kept for at least 3 years and produced if required.

This year, it was necessary to remove an attorney from the Register for a minimum six months under the provisions of Patent Regulation 20.28. The attorney had made a Patent Regulation 20.25(1)(a) statement (that is, the CPE completion form attached to renewal of registration notices) to the effect that the required CPE had been completed, when the audit showed this not to be the case. The attorney's removal from the Register illustrates that the CPE requirements set out in the Regulations are intended to be taken seriously.

I would like to remind you all of the minimum obligations; in summary, they are:

1. A registered attorney must undertake a minimum of 10 hours of CPE activities per year (15 hours for those with joint registration) in formal activities relevant to updating their professional skills.
2. CPE activities should be structured and should have identifiable outcomes and should benefit the attorney in their practice as an IP professional.
3. A minimum of one hour of CPE activities relevant to ethics/professional conduct must be completed each year.
4. CPE is self-regulating, with the attorney being responsible for selecting CPE activities.
5. The Professional Standards Board recommends that the balance of activities in any year should conform to the following guidelines:
 - a. the CPE should be from more than one source;
 - b. no more than 3 (or 4.5) hours should be claimed for structured personal study, including the reading of professional journals;
 - c. Attorneys with dual registration as patent attorneys and trade marks attorneys should complete at least 5 hours of CPE in each field.

The next audit of 50 attorneys will commence in September 2014. Improvements are being made to the process that are designed to reduce the burden for selected attorneys, and allow completion of audit activities within the current calendar year.

Patricia Kelly,
Designated Manager

1 August 2014