



Australian Government



New Zealand Government
Te Kāwanatanga o Aotearoa

Trans-Tasman IP Attorneys Board

Trans-Tasman IP Attorneys Board Post-Meeting Communiqué 1&2 August 2023

The Trans-Tasman IP Attorneys Board met on 1 and 2 August in Brisbane, Australia. As is now our usual practice, the Board also held an event for attorneys. Thank you to those that were able to attend, either in person or watching via the livestream. The event focused on the [Report on the Review of the Arrangement Between the Governments of Australia and New Zealand Relating to the Trans-Tasman Regulation of Patent Attorneys](#) (the Review). I was joined by Jennifer Hutchinson of IP Australia and Ross van der Schyff of IPONZ in providing an update on the outcomes and recommendations of the Review. Many thanks to Dawid Prozesky, Eunice Brooke, Dr Karin Innes, and FB Rice for hosting the event.

During the Board's meeting, we considered how we will address recommendations assigned to the Board as a result of the Review. Among other things, we agreed: to conduct a review of the curriculum prospective attorneys are required to study; to provide increased and improved guidance, information and educational resources to the profession on professional conduct and related matters; to work with IP Australia and the NZ Ministry of Business, Innovation and Employment to modernise and simplify the attorney disciplinary process; and to conduct a review of the Code of Conduct in three years' time. I look forward to being able to share our progress on these matters with you over the next year.

Other items addressed at the meeting included the Board's Privacy Management Plan and Conflict of Interest Policy, and updated CPE Guidelines. These resources will be published on the website, so keep an eye on the [News](#) channel for these and other updates.

Professional conduct

Three new professional conduct matters were assessed, and several matters were concluded.

The matters before the Board raised a range of *Code of Conduct* obligations, including **integrity** and **communication**. Below are brief details of two of those cases.



A trade mark matter in which the accepted application of each party is subject to opposition by the other party. The complainant, a private applicant, alleged the attorney representing the other party engaged in threatening conduct, in breach of section 13(2) of the Code of Conduct, by virtue of an email sent to a third party informing of the dispute. Material before the Board showed that it was the attorney's client, rather than the attorney, who had sent the communication which initiated the complaint. The attorney's correspondence was considered satisfactory in terms of language and overall professionalism. This case demonstrates the importance of attorneys always communicating with courtesy and restraint.

A patent matter, where it was alleged the attorney had billed the client for work outside of the agreed fixed-fee items, and had engaged in fraud, extortion, deception and threatening behaviour in seeking payment. Evidence before the Board established that there was engagement to undertake work beyond the fixed fee items, and that the attorney's communications with the client, while less than ideal, did not amount to unsatisfactory professional conduct. This matter, like the previous one, demonstrates the importance of communicating with courtesy and restraint, and also of obtaining clear written instructions about work to be undertaken and agreement on the likely costs of such work.

Communication and outreach activities

Upcoming Continuing Professional Education Audit

The Continuing Professional Education (CPE) obligations set out in the Patent Regulations contribute to maintaining the profession's standing and providing confidence to the public of the high-quality services they can expect from a registered attorney.

Each year the Designated Manager randomly selects attorneys to take part in the CPE audit process. This year's audit is currently underway. These audits are performed to provide assurance to the public that registered attorneys are actively maintaining their professional knowledge and skills.



Annual Report

My 2022–23 Annual Report on the work of the Board has been provided to the Australian Minister for Industry and Science and the New Zealand Minister of Commerce and Consumer Affairs. The report contains highlights of the Board's activities across the year, including its enhancement to the Guidelines for the Code of Conduct, its educative activities, and its responses to the recommendations from the Review of the Trans-Tasman Patent Attorney regime. It also provides data on the Board's functional activities, such as approvals for academic qualifications, knowledge requirements, exemptions, and accreditation applications. There is also a section summarising the disciplinary matters considered by the Board and those referred to the Disciplinary Tribunal.

The 2022-23 Annual Report is available on the Board's [website](#).

The Board's next meeting will be in Melbourne on Wednesday 29 and Thursday 30 November. We will hold an event for attorneys on the afternoon of Wednesday 29 November.

Further details on the event will be published on the Board's LinkedIn profile and website soon.

Andrew Christie

Chair