

# Dr David Baxter Cox

*Barrister*

28<sup>th</sup> September 2017

Trans-Tasman IP Attorneys Board

By Email: MDB-TTIPABCodeofConduct@ipaaustralia.gov.au

Dear Board Members

**Re: Call for submissions**

I refer to your review into a draft Code of Conduct and draft Guidelines to the Code of Conduct ("**Review**") and your recent call for submissions to assist in the Review. While the following submissions are not directed at specific terms of those documents they nonetheless are important matters for the Board to consider.

It is my submission that, by adopting the phrase IP ATTORNEYS as part of its name, the Board represents to the public that it is responsible for practitioners providing services in relation to **all forms of Intellectual Property**. It is my understanding that nothing in the *Arrangement between the Government of Australia and the Government of New Zealand Relating to Regulation of Patent Attorneys* is intended to cause a major disruption to the existing regulatory regime by bringing the practice of Copyright law within the jurisdiction of the Board. If that were the intention of the Arrangement, it should have been clear on the face of the Arrangement as it would be a profound change and it would impact heavily on the practices of lawyers and patent and trade marks attorneys. It is my submission that the representation that the Board makes through its adoption of the term IP ATTORNEYS is plainly incorrect and I submit it should be changed as soon as possible.

Further, as a Barrister with a practice that regularly advises clients on matters concerning Intellectual Property, it is my understanding that in many places overseas, Patent and Trade Marks attorneys are a subset of lawyers/legal practitioners who have undergone further training. It is not uncommon for me to explain to clients, particularly those based in the United States, that Patent and Trade Marks attorneys are not always lawyers/legal practitioners. By moving away from the terms "Patent Attorney" and "Trade Marks Attorney", which already cause confusion, to the term "IP Attorney", which further emphasises the word "Attorney", and has no statutory or historical basis, it is my submission that the name of the Board further muddies the distinction between Patent and Trade Marks attorneys on the one hand and lawyers/legal practitioners on the other. This muddying of the distinction is neither appropriate nor desirable.

Francis Burt Chambers  
Level 23, 77 St Georges Terrace  
Perth, Western Australia 6000

Telephone: (+61 8) 9220 0536  
Mobile: (+61) 412 003 200  
Email: dcox@francisburt.com.au

In light of the above, I encourage the Board to reconsider the name that it has adopted for itself.

Yours sincerely

A handwritten signature in black ink, appearing to read "David Cox". The signature is written in a cursive style with a large initial 'D' and a long horizontal stroke at the end.

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Dr David Cox