

Trans-Tasman IP Attorneys Board 14 & 15 March 2024

The Trans-Tasman IP Attorneys Board met on 14 and 15 March in Auckland, New Zealand. The Board held a hybrid *Connect, Network, Learn* event for attorneys, with over 150 in attendance in person and online.

I had the pleasure of facilitating a panel discussion and Q&A on the activities of the Trans-Tasman IP Attorneys Disciplinary Tribunal, with Tribunal President Siobhan Ryan KC and Tribunal Member Dr Patrick McManamny. They reflected on their experiences on the Tribunal, and shared some observations about good professional practice.

Last year the Australian and New Zealand governments published 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* ('Regime Review Report'), available [here](#).

To give effect to a number of the Regime Review Report's recommendations, the Board has resolved to undertake a comprehensive review of the educational and other requirements for entry into the attorney professions. This is a critical piece of work, of great importance to the future of the professions.

The Board will be assisted in this work by an independent expert (yet to be appointed), who will undertake consultation with a wide range of stakeholders. At its recent meeting, the Board considered the terms of reference for the work of the expert. We encourage your input into this work once the expert is appointed and the review begins.

One of the roles of the Board is to assess whether an applicant for registration as a Trans-Tasman patent attorney has an academic qualification in a field of science or technology that contains potentially patentable subject matter, at a depth sufficient to provide an appropriate foundation for practise as a patent attorney. At its recent meeting, the Board received a presentation from, and had a discussion with, representatives from IP Australia and IPONZ on the current Australian and New Zealand law and practice concerning patentable subject matter.

Ms Veg Tran, Dr Karin Innes and Ms Kate Duckworth are concluding their terms as members of the Board. Ms Tran, Dr Innes and Ms Duckworth have greatly assisted the Board across all of its areas of responsibility. I thank them for their very significant contributions over a number of years.

Accredited courses

The Board reviewed the timing of its annual survey of accredited courses providing the knowledge requirements for trade marks attorneys and patent attorneys. It resolved to identify, in collaboration with academic institutions, a timing of the survey which would allow the Board to provide any feedback prior to the commencement of the next academic year.



Academic qualifications and knowledge requirements

The Board's Secretary has delegated authority to approve certain academic qualifications, and grant exemptions from knowledge requirements based on certain courses of study with similar outcomes to accredited courses – being qualifications/courses which the Board has previously determined clearly satisfy the requirements of regulations 20.6 and 20.9, respectively, of the *Patents Regulations 1991* (Cth) and the *Trade Marks Regulations 1995* (Cth).

While the large majority of applications to the Board are approved in this way, a number do not fall within the Secretary's delegated authority, thus requiring the Board to make case-by-case determinations. At its recent meeting, the Board approved the academic qualifications of all four of the applications it considered, and granted knowledge requirement exemptions to seven of the 10 applications it considered.

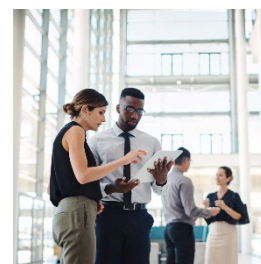
Professional conduct

Two new professional conduct matters were considered by the Board.

One matter involved an allegation that an attorney created a false invoice. The Board determined that it required further, specific information from the attorney. The matter is ongoing.

The other matter involved an allegation of an attorney engaging in threatening and bullying behaviour in communications in response to a request by a third party for the attorney's client to provide consent to registration of a conflicting trade mark.

The Board found that the attorney's behaviour was not inappropriate, and was not a breach of the Code of Conduct. The matter was concluded without further action.



Communication and outreach

Communication and engagement with the profession is a core component of the Board's operations. In response to recommendation 5 of the Regime Review Report, the Board is seeking to develop and deliver educative webinars and other presentations for members of the professions.

The Board seeks your views on the issues that you would like to hear about. Please forward your suggestions to mail.tipab@ipaaustralia.gov.au.

Board governance

The Board recognises that it must act impartially in all of its decision-making. To that end, it recently formalised the approach it adopts to ensure impartiality. The Board's Impartiality Policy, which you can read on the [TTIPA website](#), identifies the circumstances which can give rise to a reasonable apprehension of bias, and outlines how Board members must respond in the event that one of those circumstances arises.

Where an attorney's behaviour is such that the Board is satisfied there is a reasonable likelihood of the Disciplinary Tribunal finding the attorney guilty of professional misconduct, the Regulations mandate that the Board must commence proceedings against the attorney. However, where the Board is not so satisfied, but is satisfied there is a reasonable likelihood of the Tribunal finding the attorney guilty of (the lower level) unsatisfactory professional conduct, the Board has a discretion whether to commence proceedings.

The Board recently reviewed and formalised the matters that it takes into account when considering whether to commence proceedings, to ensure that its decision-making is principled and consistent.

The Board is subject to the provisions of the *Freedom of Information Act 1982* (Cth). It has updated its Freedom of Information procedures, which will be published on the [TTIPA website](#).

Next Board Meeting

The Board's next meeting will be in Melbourne, Australia on Thursday 1 August 2024 and Friday 2 August 2024. We will hold a hybrid *Connect, Network, Learn* event for attorneys on the evening of Thursday 1 August 2024.

Further details of the event will be published on the Board's [LinkedIn](#) profile and [website](#) soon, and free tickets for in-person attendees will be available through EventBrite. I hope to see you there.

Andrew Christie

Chair