



Trans-Tasman IP Attorneys Disciplinary Tribunal

Privacy Policy

Revision History

Date	Changes
24 February 2017	Policy approved
30 June 2018	Office of Legal Counsel amendments
17 May 2022	Policy approved
20 June 2023	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 Disciplinary Tribunal (**Tribunal**). The Tribunal is a statutory body established under regulation 20.61 of the *Patents Regulations 1991* (Cth).

The specific legal obligations of the Tribunal when collecting and handling your personal information are outlined in the Act and in the APPs located in the Act. Detailed information about the 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 or have been a patent or trade marks attorney with a proceeding before the Tribunal;
- have made a complaint about the conduct of a patent or trade marks attorney and it has been referred to the Tribunal;
- have provided or have been summoned to provide evidence to the Tribunal;
- have or will provide personal information to the Tribunal; or
- are a member of the Tribunal.

Personal Information held by the Tribunal

The Tribunal collects personal information of patent and trade mark attorneys who are subject to disciplinary hearings.

The personal information the Tribunal may collect includes:

- the names and addresses of registered patent or trade marks attorneys;
- the name and contact details of a complainant (including address, email address, phone, and fax number);
- educational qualifications and academic performance of registered patent or trade marks attorneys;
- employment details and statement of skills of registered patent or trade marks attorneys;
- details of the registered attorney's professional dealings with the complainant;
- details of any alleged unprofessional or unsatisfactory conduct;
- character references;
- details of any alleged fraud, or alleged failure to hold required academic qualifications or meet knowledge requirements at the time of registration;
- any other personal information included in a complaint or in the supporting evidence for a complaint (including personal information of a witness summoned to appear or provide written evidence).

Collecting sensitive information

The Tribunal may also collect sensitive information (a particular type of personal information under the Act), where relevant to the Tribunal's functions, for example, to determine 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.

The Tribunal may receive unsolicited personal information. Unsolicited personal information will be contained in a 'Commonwealth record'. As such, it will be retained until it can be destroyed in accordance with the applicable National Archives of Australia Records Disposal Authority.

Purposes of Collection, Use and Disclosure

The Tribunal is committed to compliance with the Act and will only collect, hold, use and disclose personal information to carry out its 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 Tribunal collects personal information to hear and determine disciplinary proceedings commenced by the Trans-Tasman IP Attorney's Board (**Board**) against a registered individual patent attorney in Australia or New Zealand, or a registered individual trade marks attorney in Australia; or an incorporated patent attorney in Australia or New Zealand or an incorporated trade marks attorney in Australia.

Collection of your personal information

The Tribunal hears and determines matters referred to it by the Board. Most personal information is received from the Board or from the Board's legal representatives. The Tribunal may also collect personal information from:

- individuals making a complaint about the conduct of a patent or trade marks attorney;
- parties to proceedings (or their authorised representatives); and
- witnesses summoned to appear at proceedings or provide written evidence.

Indirect collection

In the course of the Tribunal performing its functions, the Tribunal 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;
- the Australian Securities and Investments Commission or the Companies Office in New Zealand; or
- the Designated Manager.

Anonymity

For most of the Tribunal's functions and activities, the Tribunal will need your name and contact information and enough information about the particular matter to hear and determine disciplinary proceedings and handle the complaint fairly and efficiently.

Website

Information about the Tribunal can be found on the Board's website (<https://www.ttipattorney.gov.au>) and on the Australian Government Directory (**Directory**) website (<https://www.directory.gov.au/portfolios/industry-science-energy-and-resources/trans-tasman-ip-attorneys-disciplinary-tribunal>). There are a number of ways in which the Board collect's information and this is outlined in the Board's Privacy Policy (which is available on the Board's website).

Personal information may be collected via the Directory's website when submitting feedback on the content of the webpage.

Cookies

Cookies are small data files transferred onto computers or devices by websites for recordkeeping 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.

Uses of personal information

The Tribunal uses personal information for the primary purposes for which it was collected.

The Tribunal also uses personal information for secondary purposes which are related to the primary purpose such as internal business practices, auditing, and business planning.

Disclosure

The Tribunal 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.

Hearings before the Tribunal are usually held in public. The Tribunal can, however, direct that part or all of the hearing take place in private, if satisfied that this would be in the public interest, or because of the confidential nature of any evidence or matter.

The Tribunal publishes written decisions of completed disciplinary proceedings on the Board's website, setting out the reasons for a decision and the findings on any material questions of fact. These decisions may contain personal information about the parties involved. A copy of the decision may be provided to the prosecuted attorney, the prosecuted attorney's authorised representative or employer, the Board and the Designated Manager. In certain circumstances, the Tribunal may on its own volition, or upon the application of a party, redact or de-identify the name of the complainant or a witness and other identifying details from the full written decision.

Overseas recipients of personal information

Where required by legislation or otherwise appropriate, the Tribunal may also disclose personal information (including (potentially) sensitive information) to the Board, the Australian Securities and Investments Commission or the Companies Office in New Zealand for the above purposes. If personal information is disclosed to the Board or the Companies Office in New Zealand, personal information may be disclosed overseas to members of the Tribunal who are New Zealand residents or to employees of the Companies Office in New Zealand.

Names of Tribunal members, Tribunal decisions 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 Tribunal uses a number of service providers to whom it discloses personal information. These include legal service providers, website server providers, IT service providers and human resource providers.

Disclosure of sensitive information

The Tribunal will only disclose your sensitive information for the purposes for which it was provided or for directly related purposes that you would reasonably expect.

Accidental or unauthorised disclosure of personal information

The Tribunal 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 Tribunal 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 Tribunal 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 Tribunal 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. More information on the Scheme is available on OAIC's [Notifiable Data Breaches page](#).

Storage and data security

Personal information is held securely on the Tribunal's behalf in IP Australia's electronic and paper record-keeping systems. 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

Disposal of information when no longer required is managed in accordance with Commonwealth records management requirements, including the *Archives Act 1983*, record authorities and general disposal authorities.

Access to, and correction of, personal information

You may request access to personal information we hold about you. We will provide you with access as requested, if it is reasonable and practicable to do so. There may be instances where the Tribunal may refuse your request, as discussed below.

You may request corrections to any of your personal information that the Tribunal holds to ensure the information is accurate, up to date, complete, relevant and not misleading.

The Tribunal must be satisfied that you are seeking access to, or correction of, your own personal information. We may ask you to provide verification of your identity.

This process is free of charge.

You can access or correct personal information the Tribunal holds about you by contacting:

Email	privacy@ipaustalia.gov.au
Telephone	1300 65 10 10 (callers within Australia)
International Callers	+61 2 6283 2999
TTY	The National Relay Service on TTY 13 36 77; or Speak and Listen on 1300 555 727 (for hearing impaired callers)
Translating & interpreting service	13 14 50 (within Australia); or +613 9268 8332 (outside Australia)

Post	Privacy Contact Officer IP Australia PO Box 200 Woden ACT 2606 Australia
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Response to request for access or correction

We will acknowledge your request within 5 business days.

We will provide you with a written response within 30 calendar days after receiving your request, by:

- providing access to the documents;
- advising you of our decision to refuse access to or correction of documents; or
- advising you of any difficulties we have encountered in actioning your request, in which case we will provide you with an expected timeframe for finalising your request.

Access may be refused in certain circumstances where the Tribunal is required or authorised to do so under the Act, the *Freedom of Information Act 1982* (Cth), or another Commonwealth Act that provides for access to documents or information.

How to make a complaint

If you wish to make a complaint about how the Tribunal has handled your personal information you should complain in writing. If you need help lodging a complaint, you can contact the Tribunal’s Privacy Officer.

Email	privacy@ipaaustralia.gov.au
Telephone	1300 65 10 10 (callers within Australia)
International Callers	+61 2 6283 2999
TTY	The National Relay Service on TTY 13 36 77; or Speak and Listen on 1300 555 727 (for hearing impaired callers)
Translating & interpreting service	13 14 50 (within Australia); or +613 9268 8332 (outside Australia)
Post	Privacy Contact Officer IP Australia PO Box 200 Woden ACT 2606 Australia

The Privacy Officer will acknowledge that your complaint has been received within 5 business days.

The Privacy Officer will usually respond to your complaint within 30 calendar days after the request is made.

The Tribunal is 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.

Privacy complaints to the Office of the Australian Information Commissioner (OAIC)

If you are dissatisfied with the way the Tribunal 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

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 to OAIC or the Commonwealth Ombudsman, you should try and resolve your complaint with the Tribunal.

Updates to this Policy

We may update this Privacy Policy from time to time. Updates will be posted on our website.

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.