



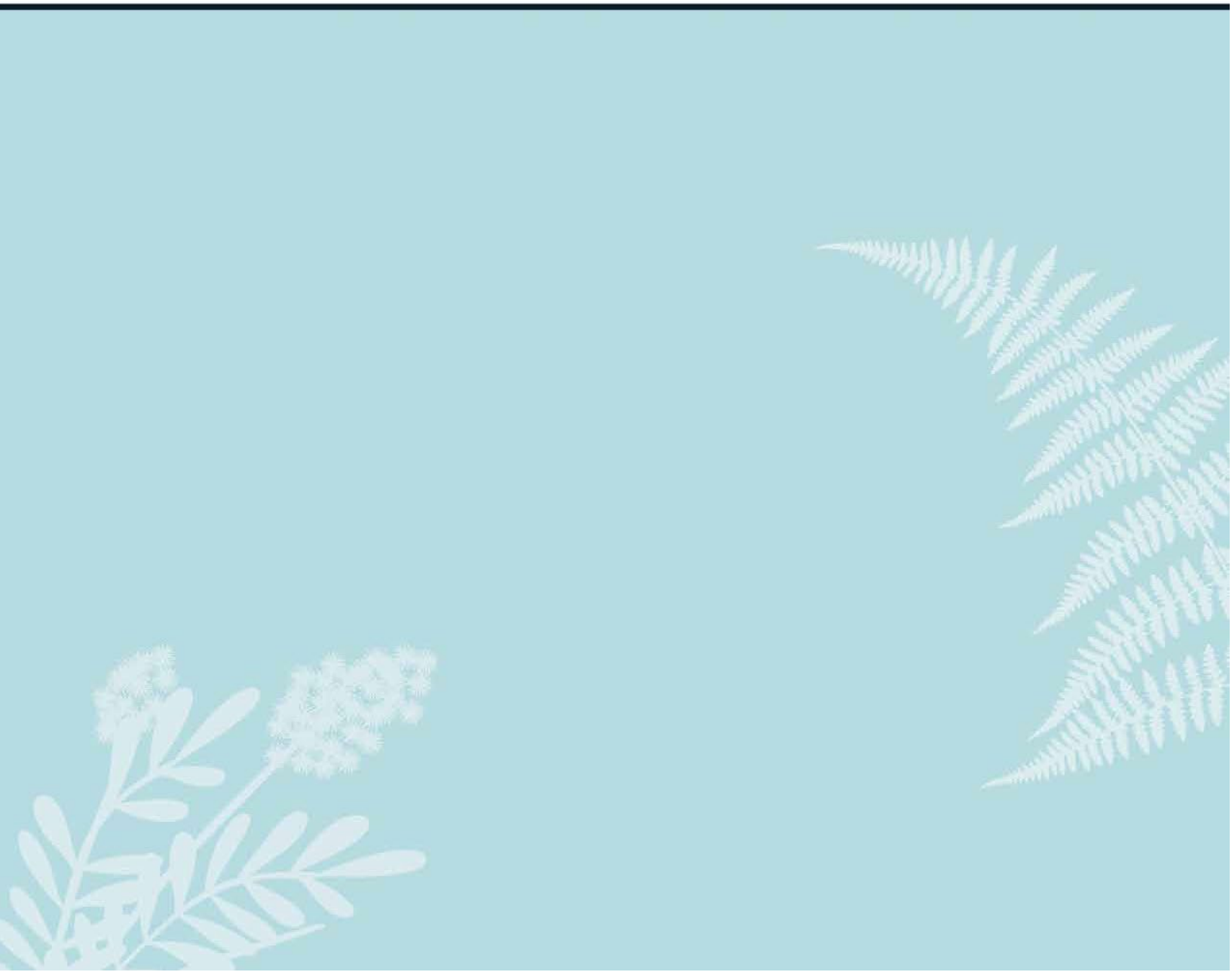
Australian Government



New Zealand Government

Te Kawanatanga o Aotearoa

Trans-Tasman IP Attorneys Board Chair's Report 2021-22



Chair's Report 2021-22

Introduction

The Trans-Tasman IP Attorneys Board (the Board) is a statutory body established under section 227A of the *Patents Act 1990* (Cth). The Board was given effect by the *Arrangement between the Government of Australia and the Government of New Zealand Relating to Trans-Tasman Regulation of Patent Attorneys* (the Arrangement).

This report covers the activities of the Board and Designated Manager for the period 1 July 2021 – 30 June 2022.

Functions and responsibilities

The Board administers the regulatory and disciplinary systems for patent attorneys in Australia and New Zealand, and trade marks attorneys in Australia. The Board's role is to determine:

- the academic qualifications required to become patent and trade marks attorneys;
- the knowledge requirements for a person to register as a patent or trade marks attorney;
- consideration of exemptions from the knowledge requirements of a topic group or groups based on an individual's prior study;
- accreditation of courses for registration as a patent or trade marks attorney that satisfy the respective subject requirements under the *Patent Regulations 1991* (Cth) or the *Trade Marks Regulations 1995* (Cth);
- disciplinary matters, including a complaints and investigation procedure; and
- the professional conduct of patent and trade marks attorneys.

2021–22 Board highlights

As in previous years, the Board's activities were not significantly impacted by COVID-19 during 2021 and early 2022. Meetings of the Board and its sub-committees continued to be held by videoconference in response to travel restrictions.

The Board met on 3 occasions (13 August 2021, 19 November 2021 and 1 April 2022) and approved 201 applications spanning patent and trade marks attorney academic qualifications, knowledge requirements and exemptions. Detailed statistics can be found at Table 3 of the Appendix.

The Board investigated six complaints against registered patent and trade marks attorneys during the period, a decrease of 3 from 2020–21. None of these complaints were referred to the Disciplinary Tribunal. The Disciplinary Tribunal has one current matter proceeding from 2020–21, with a hearing expected to be completed and a decision made in the first half of 2022–23.

Review of the Code of Conduct and accompanying Guidelines

The *Code of Conduct for Trans-Tasman Patent and Trade Marks Attorneys 2018* (the Code) and its accompanying Guidelines are read together to provide comprehensive direction to attorneys on issues of behavior, performance, and carriage of patent and/or trade mark matters. The Board engaged Professor Andrew Christie, Chair of Intellectual Property at Melbourne Law School, to conduct a health check of the Code. The health check found that the Code remains a fit-for-purpose instrument for the IP Attorney profession, the Board, and the public more broadly. Some minor clarifying amendments to the Guidelines were recommended, and work on these is underway.

2021–22 Designated Manager update

The *Patents Act 1990* (Cth) provides for a person, the Designated Manager, to register patent and trade marks attorneys and to maintain the respective Registers of Patent Attorneys and Trade Marks Attorneys. The role of Designated Manager is performed by the Director General of IP Australia, Michael Schwager.

As of 30 June 2022, there were a total of 1526 individual and 86 incorporated registered attorneys (down 3 percent from the 1571 individual registered attorneys in 2020–21). 70 new registrations were recorded during the year and 91 attorneys were removed from the Registers. Further detail is available in tables 3, 4, and 5 of the Appendix.

Registered attorneys	Individuals		Incorporated	
	2021-22	2020–21	2022-20	2020-21
Single-registered patent attorneys	376	364	31	30
Single-registered trade marks attorneys	485	516	07	6
Dual-registered patent & trade marks attorneys	665	691	48	50
Total registered attorneys	1526	1571	86	86

Appendix

Membership

The legislation establishing the Board provides for a minimum of seven and no more than 10 members. Non ex officio members are appointed by the Australian Minister for Industry, Energy and Emissions Reduction in consultation with the New Zealand Minister for Commerce and Consumer Affairs. The Board is required to include:

- the Chair;
- the Director General of IP Australia;
- the New Zealand Commissioner of Patents;
- at least two New Zealand resident patent attorneys (nominated by the New Zealand Minister of Commerce and Consumer Affairs); and
- at least two other members.

Australian Government guidelines also recommend geographic and gender diversity, with women and men each holding a minimum of 40 per cent of positions at an individual board level. The Board's membership addresses this recommendation.

During the reporting period, Ms Kate Duckworth, Dr Karin Innes and Ms Viet-Chau Tran were all reappointed for a second three-year term.

TABLE 1: OFFICE HOLDERS DURING THE REPORTING PERIOD

Name	Position	Location	Gender	Background
Ms Elizabeth Hopkins	Chair	New Zealand	F	Independent consultant and non-executive director
Mr Michael Schwager	Ex officio Member	Australian Capital Territory, Australia	M	Director General of IP Australia
Mr Ross van der Schyff	Ex officio Member	New Zealand	M	New Zealand Commissioner of Patents
Ms Kate Duckworth	Member	New Zealand	F	Patent attorney
Mr Ian Finch	Member	New Zealand	M	Patent attorney
Mr Anthony Alder	Member	New South Wales, Australia	M	Patent and trade marks attorney
Mr Carl Harrap	Member	New South Wales, Australia	M	Patent attorney
Dr Karin Innes	Member	Victoria, Australia	F	Patent and trade marks attorney
Ms Viet-Chau Tran	Member	New South Wales, Australia	F	Special Counsel

Meetings and remuneration

The Board held three formal meetings during the reporting period. The Board is also supported by sub-committees (comprising a subset of Board members) that may convene in advance of formal meetings to consider more complex matters.

Board and Designated Manager Statistics 1 July 2021—30 June 2022

TABLE 2: APPLICATIONS CONSIDERED AND APPROVED BY THE BOARD

	Considered	Approved
Approval of academic qualifications		
Patent attorneys	41	37
Trade marks attorneys	48	48
Approval of knowledge requirements		
Patent attorneys	33	33
Trade marks attorneys	41	41
Exemptions from knowledge requirements based on prior study		
Patent attorneys	35	30
Accreditation of courses		
Patent attorneys	0	0
Trade marks attorneys	0	0

TABLE 3: NEW ATTORNEY REGISTRATIONS (DESIGNATED MANAGER)

Patent attorneys	
Australian-resident patent attorneys	14
NZ-resident patent attorneys	06
Australian dual-registered patent and trade marks attorneys	06
NZ dual-registered patent and trade marks attorneys	0
Trade marks attorneys	
Australian-resident trade marks attorneys	26
NZ-resident trade marks attorneys	06
Overseas resident trade marks attorneys	01
Total individual attorneys	59
Incorporated attorneys	
Australian incorporated patent attorneys	04
NZ incorporated patent attorneys	01
Australian incorporated trade marks attorneys	04
NZ incorporated trade marks attorneys	0
Australian dual-registered incorporated patent & trade marks attorneys	02
NZ dual-registered incorporated patent & trade marks attorneys	0
Total incorporated attorneys	11

TABLE 4: ATTORNEY RENEWALS (DESIGNATED MANAGER)

Renewals	
Patent attorneys	376
Trade marks attorneys	485
Dual-registered patent & trade marks attorneys	665
Incorporated patent attorneys	31
Incorporated trade marks attorneys	07
Dual-registered incorporated attorneys	48
Total	1612

TABLE 5: REMOVALS FROM AND RESTORATIONS TO THE REGISTERS (DESIGNATED MANAGER)

Removed from the Registers	Individual	Incorporated
Patent attorneys	26	04
Trade marks attorneys	55	06
Total registrations removed	81	10
Restored to the Registers	Individual	Incorporated
Patent attorneys	02	0
Trade marks attorneys	05	0
Total registrations restored	07	0

Note that Table 5 considers registrations, not individuals. This is because some previously dual-registered attorneys have not maintained their registration as either a patent or trade marks attorney, but have maintained their other registration.

TABLE 6: CONTINUING PROFESSIONAL EDUCATION DEFERRALS (DESIGNATED MANAGER)

Continuing professional education deferrals	2022	2021
Patent attorneys	02	02
Trade marks attorneys	05	06
Dual-registered patent & trade marks attorneys	06	04
Total	13	12

TABLE 7: RENEWAL FEE WAIVERS (DESIGNATED MANAGER)

Renewal fee waivers	2022	2021
Patent attorneys	0	01
Trade marks attorneys	15	15
Dual-registered patent & trade marks attorneys	09	09
Incorporated patent attorneys	0	0
Incorporated trade marks attorneys	0	0
Dual-registered incorporated attorneys	03	03
Total	28	27

Note that Tables 6 and 7 provide figures for COVID relief measures accessed for the renewal period of June-July 2021 and June-July 2022. Attorneys are notified on 1 June of each year that continuing professional education statements for the previous 12 months and the fees to renew their registrations for the next 12 months are due by 31 July.