

## Continuing Professional Education

### *Introduction:*

As members of a profession, patent and trade marks attorneys have an obligation to develop and maintain their knowledge and skills so that they can maintain high standards of service. Amendments to the *Patents Regulations 1991*, commencing 1 July 2008, require all attorneys registered in Australia to complete satisfactory Continuing Professional Education (CPE) for renewal of their attorney registration.

All CPE must be relevant to the enhancement of the attorney's practice and service to clients. These guidelines provide advice on the amount and type of CPE that the Board regards as acceptable in discharging the attorney's obligation as part of their registration renewal requirements.

CPE embraces a range of educational activities undertaken in addition to the normal work of the attorney. CPE should present no challenge to the committed professional, who already spends considerable time in keeping up with new legislation, case law, trends in technology, law and practice of major trading partners and the changing market. For this reason, primary reliance is placed on registered attorneys to decide which activities best satisfy their requirements given the scope and jurisdictions of the attorney's practice.

CPE activities are available from a number of sources and may include a limited amount of personal study. There needs to be some formality or structure to each CPE activity so as to provide substance to the activity and evidence of its completion. For example, a statement that the attorney regularly reads professional journals would not have sufficient focus or formality to satisfy the requirements.

While it is expected that most CPE will be directly related to patents or trade marks law and practice, study in other areas related to an attorney's practice may nevertheless make relevant contributions to maintaining professional competence. Thus, a patent attorney specialising in biotechnology might attend an academic conference on contemporary research in biotechnology. An attorney with a professional interest in the commercialisation of technology might take a course in technology transfer or the funding of innovation. A trade marks attorney might study recent trends in marketing and design.

### *The Requirement to undertake continuing Professional Education*

From 1 July 2008, all registered patent attorneys and trade marks attorneys will be required to spend a minimum of 10 hours per year in formal CPE.

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Attorneys who are registered both as patent and trade marks attorneys will be required to complete a minimum of 15 hours per annum of formal CPE.

CPE activities must be completed in the given year and cannot be carried forward as credit to future years.

Where an attorney is registered for the first time during the year, the requirement to undertake CPE will not commence until the first full year of registration.

The CPE requirement will be self-regulating. Attorneys will be asked to confirm on their annual registration form that they have completed the required hours of CPE in the past year. Failure to give the Designated Manager a written statement made by the attorney stating that the attorney has met the CPE requirements; not keeping records of CPE; or, not producing records to the Designated Manager, and not keeping records for the required 3 years may result in the Designated Manager removing the attorney's name from the register for a period not exceeding 6 months. If a registered attorney provides a false statement as to his CPE compliance or fails to produce written records of CPE compliance without reasonable excuse the Designated Manager must remove the attorney's name from the register. In addition, the attorney cannot return the attorney's name to the register for at least 6 months.

The Designated Manager will conduct audits of selected registered attorneys. Attorneys will normally be selected randomly, but attorneys may be selected for other reasons. Those subject to audit will be required to present documentary evidence that they have successfully completed the required CPE. It is expected, however, that formal audits will not commence until 2011, thus providing attorneys with an initial period in which to become familiar with CPE opportunities and to inculcate CPE activities within their work programs. This does not rule out the possibility of a particular attorney being audited before then if doubt has arisen about whether they have met their obligations.

Failure to comply with the CPE requirement could lead to cancellation or suspension of the attorney's registration.

### *Achieving balance and breadth*

The following recommendations are designed to ensure that registered attorneys undertake a breadth of activities in any year, rather than relying upon one source of information or concentrating entirely on one aspect of their professional knowledge and skills:

- the CPE should be from more than one source;
- no more than 3 hours should be claimed for personal study;
- attorneys with dual registration as patent attorneys and trade marks attorneys should complete at least 5 hours of CPE in each field.

## *Acceptable CPE Activities*

Acceptable CPE activities are those that can be demonstrated as making a contribution to achievement of the aims of CPE in a formal or structured way. There should be identifiable outcomes from the CPE selected.

Relevant activities include:

- lectures (including at a conference or in a formal study program), workshops, educational videos and on-line study;
- formal in-house training programs, lectures or seminars designed to update knowledge and skills within the profession;
- courses of study at educational institutions insofar as the content is relevant to the work of the attorney;
- participation in organised discussion groups on topics of professional interest;
- service on technical committees of a professional body.
- writing articles, papers or books with substantial technical content;
- teaching in relevant courses, including award courses and continuing education programs relevant to the profession.
- completion of a personal study program (see below).
- other study, not included above, which can be demonstrated to achieve the desired outcomes of CPE.

## *What is meant by a personal study program?*

An attorney may wish to follow a personal study program that includes relevant personal reading. Records should be maintained, setting out the nature and purpose of the study program and the hours expended.

It is recommended that no more than 3 hours of CPE credit should be claimed annually for a personal study program.

## *Overseas attorneys*

Australian registered attorneys living overseas are also required to comply with CPE requirements although they may not be able to attend Australian seminars, conferences or other locally organised activities. Learning activities undertaken overseas, especially in relation to overseas attorney work, may be relevant. Overseas attorneys can also undertake personal study (as outlined in the guidelines) or on-line learning activities.

## *Part-time, semi-retired, retired attorneys*

Attorneys not practising full time will still be required to complete the minimum CPE requirements to remain registered.

### *“Double-dipping”– CPE and other professional development requirements*

As long as the learning activity is relevant to practise as an attorney, attorneys may claim CPE points for activities claimed for other professional developments – such as continuing legal development for legal practitioners. The learning should be relevant and seen to benefit the attorney in the delivery of services to his or her client.

### *Maintaining Records of CPE activities*

Attorneys must maintain adequate records of their CPE activities, providing evidence of completion of the claimed activities and of their nature and duration. These records may include, for example, receipts for course registration, course outlines, and letters of appointment to lecturing positions or to technical committees. Diary records also may be of particular assistance in responding to an audit

These records should be retained for at least 3 years.

### *The Board’s role in promoting CPE*

Professional bodies, such as the Institute of Patent and Trade Marks Attorneys (IPTA), IPSANZ, FICPI and educational institutions such as universities and research centres, will be expected to offer CPE programs. The Board encourages the provision of suitable CPE activities in a variety of forms and will endeavour to provide information on CPE activities on its web-site (<http://www.psb.gov.au>).

The Board will also be willing to review proposed activities and, if found suitable, to recommend an appropriate number of CPE points for the activity. There is no compulsion to undertake activities approved by the Board and relevant activities are not limited to those the Board has seen and approved.

### *Summary of CPE requirements*

1. A registered attorney will be required to undertake a minimum of 10 hours of CPE per year (15 hours for those with joint registration) in formal activities relevant to the updating of their professional skills.
2. The CPE should be structured and should have identifiable outcomes and should benefit the attorney in their practice as an IP professional.
3. CPE is self regulating, with the attorney being responsible for selecting CPE activities.
4. The Board recommends that the balance of activities in any year should conform to the following guidelines:
  - a. the CPE should be from more than one source;
  - b. no more than 3 hours should be claimed for structured personal study, including the reading of professional journals;
  - c. Attorneys with dual registration as patent attorneys and trade marks attorneys should complete at least 5 hours of CPE in each field.

## Professional Standards Board for Patent and Trade Marks Attorneys

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If you have any concerns please contact the Secretary, Professional Standards Board. Contact details:

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