



# Academy of Education

Institute of Patent and Trade Mark Attorneys of Australia

## **A MASTERCLASS IN PATENT OPPOSITIONS**



**5-6 March 2020  
Monash Conference Centre  
MELBOURNE**

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## A MASTERCLASS IN PATENT OPPOSITIONS

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### *Why attend this Masterclass?*

The Patent Opposition Masterclass is a well-crafted session designed to allow patent attorneys to sharpen their opposition practice. The 2-day course will traverse important aspects of patent opposition practice with a case study to put learnings into practice. The course will be interactive and provide a strategic approach to oppositions with tactics for better outcomes. Each day will include a panel session so that insights can be gained from Hearing Officers and Practitioners.

### *About the facilitators*

The Masterclass will be facilitated by Ben Fitzpatrick, Ian Horak, and Lucy Davis. The facilitators are well-respected barristers and between them have more than 40 years' experience in conducting patent oppositions as well as patent litigation. They have extensive knowledge of patent law and practice and bring the experience of working numerous industries, collaborating with a variety of attorneys and appearing before the Patent Office and the Courts.

### *Who should attend?*

The Masterclass is designed for IPTA Members who are registered patent attorneys and want to improve the effectiveness of their opposition practice. The class will assume a good knowledge of the general principles of patent law and their application. It will best suit those who have had some patent oppositions experience, although previous opposition experience is not essential. Those who infrequently deal with oppositions or wish to deal with oppositions on a more frequent basis in the future are encouraged to attend. If you are not currently an IPTA member please contact the Secretariat.

*At IPTA we are eager to empower you with the tools you need  
to enhance your already remarkable skills.*

## ABOUT THE FACILITATORS

### *Benjamin Fitzpatrick*

Ben specialises in intellectual property law. Before joining the Bar, Ben practised as a solicitor and patent attorney with Davies Collison Cave, specialising in trade marks, patents, designs, copyright and the *Trade Practices Act*. Ben also practised as a commercial litigator with Corrs Chambers Westgarth in Sydney. Ben has appeared before the Federal Court, the Supreme Court and the Patent and Trade Marks Office. In particular, Ben has settled evidence and appeared before the Patent Office and the Courts in relation to patent litigation, including enforcement of intellectual property rights against third parties, defending clients against claims of intellectual property infringement, applications for urgent interlocutory relief including injunctions and undertakings, enforcement of judgements, patent oppositions and filing and prosecution of appeals against Patent Office decisions. Ben is a Senior Fellow-Postgraduate Intellectual Property, at the Faculty of Law, Melbourne University. He is a registered Patent and Trade Marks Attorney with technical qualifications in genetics and biochemistry.



### *Ian Horak*

Ian is a barrister at the Victorian Bar. He is also a registered Australian Patent and Trade Marks Attorney. Ian also holds a First Class Honours degree in Chemical Engineering. Ian practises exclusively in intellectual property law and regularly appears before the Federal Court of Australia and the Australian Patent and Trade Marks Office. He has appeared in numerous oppositions and in many patent cases in the Courts including *AstraZeneca AB v Watson Pty Ltd* in the High Court of Australia and *RPL Central* in the Full Court of the Federal Court of Australia. In addition to his practice at the Bar, Ian is a Senior Fellow at Monash University's Law School where he is the Chief Examiner and lecturer in postgraduate subjects on intellectual property and trade mark practice. Ian is a co-author of the seminal publication "Shanahan's, Australian Trade Marks Law and Passing Off" (5th and 6th edition).



### *Lucy Davis*

Lucy is a barrister at the Victorian Bar specialising in intellectual property law. In addition to her legal qualification, she holds a Bachelor of Science. Lucy has advised and appeared in a range of disputes including in the Federal Courts and the Patent and Trade Marks Office. Her work has involved advice on substantive rights, intellectual property management, preliminary dispute resolution, initiating proceedings, preparation of evidence and appearing in proceedings. Her recent matters have included patent and trade mark opposition proceedings, protecting clients' intellectual property rights and defending clients against allegations of intellectual property infringements. Lucy is also the Chief Examiner and lecturer in Copyright & Design Law at Monash University.



## DATES & VENUE

Location	Date	Time	Venue
Melbourne	5th & 6th March 2020	Thu 9.00am - 4.15pm	<b>Venue (Map <a href="#">link</a>)</b> Monash Conference Centre Level 7, 30 Collins Street Melbourne
		Fri 9.30am - 3.30pm	

### FORMAT:

Run over 2 days with morning and afternoon tea and lunch provided, and dinner also included on Thursday evening.

### CPE:

The course includes at least 9.5 hours of education content, which can contribute towards continuing professional education requirements.

### COST

IPTA Members \$800

\*YIPTA Members \$700

Dinner included

**Spaces are limited to ensure a personal learning experience**

**REGISTER TODAY**

*If you would like to attend, please register online by Friday, 20 December 2019.*

*Please call IPTA on (03)9639 4377 if you require more information*

\*YIPTA – members of IPTA with less than 5 years post-registration experience as patent and/or trade mark attorneys

## Indicative Course Outline – A Masterclass in Patent Oppositions

### Day 1

9:00am	Registration
9:30am	<p>Introduction to and initiating patent oppositions: <i>Strategic approach to commencing and defending an opposition to achieve desired outcome</i></p> <p>Topics canvassed: reasons for opposing / outcome desired; strawman oppositions; selection of grounds; preparation of Statement of Grounds and Particulars; differences in approach acting for Applicants vs Opponents.</p>
11:00am	Morning Tea
11:15am	<p>Preparation of evidence - witnesses: <i>Tactical approach to selecting and working with the right experts</i></p> <p>Topics canvassed: person skilled in the art &amp; witness selection; working with witnesses; construction issues.</p>
12:00pm	<p>Preparation of evidence - grounds of opposition: <i>Focused approach to evidence gathering on relevant opposition grounds</i></p> <p>Topics canvassed: priority date challenges; lack of novelty (documentary and prior use proof); internal objections; entitlement disputes (disputed facts and cross-examination).</p>
12:45pm	Lunch
1:45pm	<p>Preparation of evidence - grounds of opposition: <i>Focused approach to evidence gathering on relevant opposition grounds (cont.)</i></p> <p>Topics canvassed: lack of inventive step (common general knowledge, ascertainment); general issues in proving lack of inventive step; innovative step.</p>
2:45pm	Afternoon Tea
3:00pm	An Attorney's Perspective - Practitioner Panel: <i>Learn from experienced attorneys with a Q&amp;A session</i>
4:15pm	End of Day 1
6:00pm	Dinner (venue to be confirmed)

## Course Outline – A Masterclass in Patent Oppositions

### Day 2

- 9:30am Preparation for hearing and conduct of hearings: *A considered approach to ensure successful advocacy*
- Topics canvassed: Pre-hearing steps (additional evidence via Regulation 5.23; amendments to Specifications during Opposition; and written submissions); amendments to Statement of Grounds and Particulars; selecting issues for success; interplay between grounds of opposition; written submissions.
- 10:30am Morning Tea
- 10:45am Preparation for hearing and conduct of hearings: *A considered approach to ensure successful advocacy* (cont.)
- Topics canvassed: Conduct of hearings and strategies for success; oral submissions.
- 11:30am Hearings Panel Discussion: a different perspective (Guest Speaker from IP Australia)
- 12:30pm Lunch
- 2:00pm The Decision: Now what? Legal and strategic approaches
- Topics canvassed: Post-decision amendments; costs; appeals to the Court in a post-Raising the Bar environment; redeploying experts; agitating the Opposition in a Court environment; appeals versus judicial review. Ending appeals early. Role of the parties and the Registrar in appeals.
- 3:30pm End of Masterclass in Patent Oppositions