

## The Patent Regulation Board and the Trade Mark Regulation Board

### Minutes

Thursday 12 December 2024 at 1.00 p.m.

Orwell Room, 20 Little Britain, London, EC1A 7DH

#### Attending:

Rt Hon Lord Smith of Finsbury (IPReg Chair and Education Working Group)

Alan Clamp (Education Working Group)

Victor Olowe

Samantha Peters (Technology, Data and Innovation Working Group)

Henrietta Rooney (Education Working Group)

Gary Wilson (Technology, Data and Innovation Working Group)

Justin Bukspan (Technology, Data and Innovation Working Group – attending virtually)

Katarina Kolyva (Education Working Group Chair – attending virtually)

**In attendance:** Fran Gillon (CEO), Shelley Edwards (Head of Registration), Victoria Swan (Director of Policy – attending virtually), Sally Gosling (Head of Education Review)

1. Apologies were received from Harpreet Dhaliwal.
2. No conflicts of interest were declared.

#### Items for Decision/Discussion

#### 3. Minutes of November 2024 Meeting and Matters Arising

- 3.1. The minutes of the meeting were approved as a correct record. There were no matters arising.

#### 4. IT system and fee collection update

- 4.1. The Chair opened the discussion on the IT system and fee collection update. The CEO stated that the go-live date had been on 9 December, which had been slightly later than expected. The delay had not been due to IT, but the inability to take card payments. The submitting of the annual returns figure had been around 33%, which was a significant achievement. The figures were significantly lower for entities. This put the organisation in a strong position.
- 4.2. The Chair asked when the card payment issue was likely to be resolved. The CEO responded that she hoped that this would be resolved soon. We had applied to Elavon and had been told just over a week ago that the application had been approved. However, the following day, Elavon had notified us that their compliance team needed some more information and their decision could take up to 30 days. The CEO had contacted our external auditors who had confirmed that they would be happy to provide assurance to Elavon if required.

- 4.3. The CEO explained that around 75% of practising fees were collected by BACS. She hoped that the issue would be sorted relatively quickly, but there had been no impact on fees to date. If Elavon did not want to proceed, the option would be to approach Barclays or Stripe. The disadvantage of these providers was that some changes would be required to the CRM. There had been some queries from registrants, but not a significant number. It was not likely that there would be many queries over the Christmas period.
- 4.4. A Board member asked whether any irritation had been noted from registrants. A Board member responded that there had been some queries from registrants, and it was likely that if this issue was not fixed by January it could cause some annoyance.
- 4.5. A Board member asked whether it would be possible to extend the final payment deadline by two weeks, to mitigate any challenges or complaints. The CEO stated that she would see what happened in the next two weeks. If Elavon accepted our application, the process would be fairly quick. Payment could be made via BACS in the interim period.
- 4.6. The Chair asked whether it could be helpful to extend the deadline in any event. The CEO responded that more testing on the CRM would be required with Barclays or Stripe.
- 4.7. The Chair suggested that the CEO considered the situation in the following week when more was known from Elavon, and if the Board still decided it was necessary, there could be an extension of the cut-off date.
- 4.8. A Board member stated that she wanted to mitigate the risk of the situation worsening. She hoped that it would be resolved soon, but it would be good to know that there was the ability to put some flexibility in the system if needed. She asked whether any specific groups of registrants would be particularly impacted by the issue. If the complaint came from a particular group, there needed to be consideration about any issues raised.
- 4.9. The Head of Registration explained that there were a number of attorneys based out of the UK, and these individuals would prefer to pay by card. IPReg's rules did not allow them to suspend an attorney from the register for payment until 1 March. Registrants were given until 31 January to pay and were then given a suspension warning on 1 February before being suspended on 1 March. The communications would be tailored to reassure people that they would not be struck off the register for non-payment of fees if that was related to the card payment issue. It was also possible to waive the penalty for late payment.
- 4.10. The Chair stated that the executive team needed to make a decision in light of the information received in the following week, but the Board was prepared to be flexible to allow for an extension of the deadline.

**Action: CFO to pursue applications to payment providers**

**Action: CEO and Head of Registration to keep situation under review**

## 5. Education

### *Update on Education Review and PEB re-accreditation*

- 5.1. The Head of Education Review provided an update on the education review. This set out the process for the re-accreditation of the PEB Foundation Certificate (FC) exams and the response to the requirements and recommendations following the accreditation exercise of the Final Diploma (FD) exams in 2022. The approach sought to ensure that the process was proportionate and as streamlined as possible. Independent assessors had been appointed to undertake the work, and there had been meetings with them to discuss their approach. The FD submission was expected to be received in the week commencing 16 December. Documents had been shared with the Education Working Group for advice.
- 5.2. The Head of Education Review stated that the Regulatory Forum on 12 December had discussed the impact of the FC and FD reviews on the PEB. The Regulatory Forum suggested that a meeting in the new year between the PEB, CIPA and IPReg could be helpful to identify any mitigation that needed to be put in place.
- 5.3. A Board member asked whether there would be any impact on the timetable put forward by the PEB for introducing the new exams in October 2025. The Head of Registration explained that there should be some efficiencies both for the PEB and the assessors from considering the FC and FD submissions concurrently. The Board agreed that, if necessary, IPReg would be open to discussing a change to the overall timetable. The assessors would finalise their report by the end of February, and this would be discussed at the March board meeting.
- 5.4. The Board noted the report.

### *Apprenticeships*

- 5.5. The Chair noted that there had been preliminary discussions around apprenticeships in previous Board meetings, and IPReg supported exploring the development of an apprenticeship route into the profession.
- 5.6. The Head of Education Review explained that she had drafted a short position statement for the Board to consider. This set out IPReg's support for apprenticeships; there was a strong interest and appetite for exploring the benefits that apprenticeships could bring. There were uncertainties around Level 7 apprenticeships given recent Government statements. This was causing a lot of concern and uncertainty particularly in universities. The current group in relation to the patent attorney profession was considering a partial route to qualification. It could be valuable to not exclusively focus on one route, and instead consider other routes into the profession for patent attorneys.
- 5.7. The Head of Education Review stated that there had been strong interest for both professional bodies to look alternative routes to qualification. It was IPReg's role to ensure that the routes met our competency requirements. It could be helpful to provide a clear statement of support, considering the breadth of ways apprenticeships could be used. The

model of apprenticeships could be explored within the broader education review, to have greater integration and improve efficiencies.

5.8. A Board member stated that she welcomed the approach of apprenticeships. Her consideration was around timing. There was a lot of change taking place, and universities were in difficult financial positions to deliver in a changing policy landscape.

5.9. A Board member stated that his consideration was around timing and whether it would be beneficial to publicly state a position at present. He was not sure whether now was the correct time to explicitly announce IPReg's position. The Chair commented that he thought that a broader statement could be useful.

5.10. A Board member stated that the statement was appropriately broad and not committing to a particular policy at this point was sensible. He was comfortable to proceed with the statement.

5.11. A Board member stated that the paper was well-structured and sufficiently cautious given the extent of the work proposed to be undertaken in the Review. In terms of timing, the statement would demonstrate that IPReg was happy to engage with this matter and signal its commitment to it.

5.12. The Chair asked the Head of Education Review why she wanted to publish the position paper at this point. The Head of Education Review responded that it could be helpful to have a position that could be used in a range of ways, to indicate an openness about different routes into the profession. The statement took into account that the timing and the range of different issues in the apprenticeship agenda were likely to change.

5.13. The CEO stated that the other benefit of publishing the statement was to provide a level of transparency about the Board's thinking and discussions. A position statement could then be easily interpreted and referred to, providing overall transparency and clarity.

5.14. The Board approved the proposed position statement and its publication.

**Action: Head of Education Review to publish statement**

**6. Governance Action Plan – Review of Outstanding Matters**

6.1. A Board member introduced the paper and explained that it provided the opportunity to reflect on the work that had been completed on governance recently. The paper also provided an opportunity for the Board to be reflective on various matters and the questions set out on the paper should facilitate this.

6.2. The Chair asked for views on whether the strategic priorities were currently being reflected in Board papers and discussions. A Board member commented that there had been a discussion about strategic planning recently, and while this had been useful, the ideas had not been aligned to the business plan process.

- 6.3. The Chair asked whether Board members considered that there was a culture of reflective practice within the Board. A Board member noted that there was no formal structure for reflection at present.
- 6.4. The Chair suggested that the market update report was taken out of the CEO's report and once that had been re-positioned following the recommendation from the recent effectiveness review. Going forward it should be considered as a separate agenda item. He also suggested having a twice-yearly built-in Board-only discussion to reflect on the strategic priorities and general progress.
- 6.5. A Board member said the paper showed that a lot of progress had been made. It was important to have a balance between internal focus and external focus on broader policy areas. She suggested the possibility of a risk report. The Chair responded that he supported the suggestion of a risk report. The report could be developed for the annual strategy day, to inform the discussions.
- 6.6. A Board member said a strength of IPReg was how receptive the organisation had been to the recommendations from the Governance Working Group. He asked whether a regular review had been built in as part of the structure. The Chair suggested that it would be helpful for the executive team to be part of the reflection.
- 6.7. The Chair summarised that the risk report would be provided to the Board in advance of the strategy day, and there would be a reflective session at the six-month period with senior staff engaged. There would then be a further reflective session at the start of the strategy day for the Board members only. The Board members approved this approach. A Board member noted her appreciation for the work that the CEO had done on this item. The Chair added thanks to the Board member for leading the process so ably.

**Action: CEO to incorporate changes to the six-month review and strategy day**

**7. First Tier Complaints – New LSB requirements**

- 7.1. The Director of Policy introduced the new LSB requirements. The requirements were detailed and prescriptive; they were designed to improve the way that first tier complaints (FTCs) are considered by regulated firms across the sector. The LSB requires that there will be full compliance by November 2025. The LSB's new requirements mean that IPReg will have to undertake a consultation with the regulated community and submit a full rule change application to the LSB.
- 7.2. A Board member asked whether these requirements gave IPReg the opportunity for a positive news story, as the IPReg did not have many complaints.
- 7.3. The Board discussed various matters including:
  - 7.3.1. Enhancing the IPReg website perhaps with an animation to help explain to firms what the requirements were;

7.3.2. Identifying firms with good practice in complaints handling to share their approach with other firms;

7.3.3. That it was important to be clear about what constituted a complaint;

7.3.4. Whether the annual process data collection element should ask for more data about FTCs;

7.3.5. Whether there should be a call for evidence about the levels of FTCs for firms and sole traders regulated by IPReg.

7.4. The Chair summarised that the Board approved the general direction of the approach to consultation on FTCs. It would be important as part of the consultation to ask for evidence about the approach to handling FTCs and, more generally, to think about how to highlight how best practice.

## **8. Complaints Update**

8.1. The Head of Registration presented the report. Four complaints would be carried over into 2025.

8.2. The Head of Registration said an additional ombudsman complaint had been received. The ombudsman had been very helpful in providing information about the complaints made to it. Overall, the ombudsman complaint numbers were still very low, but some work remained to be done around putting the number of complaints into context.

## **9. CEO's report**

9.1. The CEO introduced the report.

### *Strategic objectives*

9.2. She drew the Board's attention to the reframed strategic objectives. The Board discussed the draft objectives and in particular:

9.2.1. The importance of understanding and mitigating the risks faced by individual inventors;

9.2.2. The need to develop key performance indicators once the objectives had been agreed;

9.2.3. The continuing difficulty of obtaining evidence about individual consumers' needs for IP advice, although the absence of evidence supported the case that the sector is mainly business to business;

9.2.4. Whether the horizon scanning report could consider future risks, in terms of identifying the current and emerging risks and using this to inform policy in the coming years.

- 9.3. The Board asked the CEO to re-consider the risk that referred to individual consumers with a view to including a broader perception of risk and needs.

**Action: CEO to re-draft the strategic objectives for the January 2025 Board meeting**

*Recruitment of a new IPReg Chair*

- 9.4. The CEO stated that the working group set up by the Board to oversee recruitment had met. Three responses to a tender exercise for a recruitment consultant had been received. All responses had been within budget. The group considered that all three responses would be appointable, and the strengths, weaknesses and costs of each proposal had been considered. Gatenby Sanderson was recommended to the Board to conduct the process. The draft candidate information pack had been reviewed, and some amendments had been made. The CEO said she would keep the Board informed on the process. The advert would be likely to be published in the second half of January, with final appointments being made in April for ratification by the Board in May.

*Regulatory Forum on 12 December*

- 9.5. The CEO stated that the forum had received an update on the chair recruitment process and the changes that were being proposed to the IPReg Limited Articles of Association, the additional analysis on the diversity survey, as well as red risks. There had also been an update on practising fees and the issue with the payment provider. An area for collaboration had been identified in the area of artificial intelligence with an informal discussion group to be set up.

*Cyber essentials*

- 9.6. The Board asked the CEO to provide a report in March about obtaining Cyber Essentials.

**Action: CEO to investigate obtaining Cyber Essentials and report to the March Board meeting.**

**10. Action Log**

- 10.1. The action log was noted.

**11. Red Risks**

- 11.1. The red risks were noted.

**The regulatory statement was given by the Chair. It was confirmed that, except where noted, all matters were approved by the Patent Regulation Board and the Trademark Regulation Board.**