

**The Patent Regulation Board and the Trade Mark Regulation Board****Minutes****Thursday 16 July 2020 at 12 noon**

(Meeting held online)

**Attending:**

Rt Hon Lord Smith of Finsbury (Chair)  
Alicia Chantrey  
Samantha Funnell  
Steve Gregory  
Keith Howick  
Alan Kershaw  
Emma Reeve  
Nigel Robinson  
Caroline Seddon  
Nick Whitaker

**In attendance:** Fran Gillon, Shelley Edwards, Victoria Swan, Karen Duxbury (up to item 7), Rachel Greensides

1. **Apologies** – none.
2. **Notification of any conflicts of interest** – No conflicts of interest were declared.

**PART A – NON-CONFIDENTIAL ITEMS****3. Minutes of May 2020 meeting and matters arising**

The Board agreed the minutes of the May 2020 meeting as a correct record. No matters arising.

**4. Action Log**

Pro bono – FG reported that she had discussed the issue of insurance cover for pro bono work with PAMIA. PAMIA had explained that if firms or attorneys in private practice insure with PAMIA they are covered for pro bono work; however, in-house attorneys are not eligible for membership of PAMIA and so cannot be covered by PAMIA for pro bono work. FG explained to the Board that IPReg is in a position where we do not have solution for putting PII in place for in-house attorneys that includes pro bono cover unless we are content to agree that such cover is less than the minimum terms cover provided by participating insurers for private practice attorneys. FG noted this was not a desirable outcome and it was necessary to explore this issue further. FG reported she would discuss the issue further with [REDACTED] FG will also further discuss the issue with CIPA. It was noted that the CIPA pro bono clinics are covered by CIPA's PII.

LSB Diversity Information Request – FG reported that IPReg's response had been submitted to LSB. It was noted that the LSB's board paper criticised regulators including IPReg for not having

sufficient diversity data. FG noted that the LSB's paper did not properly reflect the work IPReg had undertaken to date in implementing the CRM system. FG reported she would be joining an IP Inclusive webinar to discuss diversity data with others in the industry.

Complaints update [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Regulatory arrangements review – FG reported this was on hold due to COVID-19. It was possible that work could be restarted at the end of the summer / early autumn 2020. The Board noted that delaying work on the regulatory review was a risk although progress would have to be balanced against the circumstances of COVID-19. It was noted that the first stage would be the call for evidence. FG reported she would concentrate on this with [REDACTED] to progress matters.

## 5. Discussion on Covid-19 – impact on:

### a. IPReg team

[REDACTED]  
[REDACTED]  
[REDACTED] Depending on Government advice we will have to consider whether it is safe for staff to return to office. FG reported that OSiT had undertaken a risk assessment. FG will also complete a risk assessment at the appropriate time. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

### b. Market

The Board discussed the impact of COVID-19 on the IP market in general citing mixed reports regarding workflow. The Board noted that there may be a decrease in the recruitment of graduates and therefore fewer numbers of trainees in the long term; however, it was noted that entrants to the register could not be predicted accurately.

FG reported that, since the end of March, two single attorney firms have been entered onto the register and two have come off. IPReg has received four additional enquiries regarding entity registration [REDACTED]

[REDACTED] The Board noted this was positive in the current circumstances of COVID-19. The Board noted that the postponement of changes related to IR35 meant that working through personal services companies is still cost effective and IPReg may see an increase in entity applications from single attorney firms.

### c. Budget including (i) Q2 2020 and (ii) 2021 practising fees

(i) KD presented the actual v budget for the 6 months ending 30 June 2020 [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]



The Board:

- (i) confirmed that all Board members had read the IGRs, Delegation Agreements and Information Sharing Protocols;
- (ii) agreed:
  - the Rules of Procedure (subject to minor drafting amendments) in the Annex to the paper;
  - the analysis setting out that IPReg was compliant with the IGRs; and
- (iii) delegated submission of the compliance certificate to the CEO.

## 8. Education Group Update

CS provided an overview of the Education Group workplan that demonstrated progress in a number of areas including:

- Cost reflective charges for accreditation – it has been agreed when IPReg should be passing on costs on to the institutions and a robust system is now in place;
- the ongoing discussions with Queen Mary (QM) – there have been numerous meetings with various parties at QM including parties involved in the review of academic structure. The meetings had been very helpful, for example a reduction in the number of course hours has been agreed to reflect the credit rating. It was noted that the student experience piece is still outstanding although it is hoped this will be progressed by September and the new intake of students;
- accreditation withdrawal procedure – IPReg has consulted with the accredited bodies on a process for accreditation withdrawal. Withdrawal of accreditation would only be considered where there is extreme risk but there must be a robust and defensible system in place. This issue will be brought to the Board for consideration later this year once it has been progressed by the Education Group.

## 9. Brunel University Accreditation – trade mark qualification pathway

- 9.1. VS presented the proposal for accreditation of the Foundation Level Qualification trade mark iteration of the Postgraduate Certificate in Intellectual Property (“**PCIP**”) proposed by Brunel University with the recommendation that the Board endorse the accreditation as set out within the Board paper.
- 9.2. It was noted that the May Board had considered the Postgraduate Certificate patent pathway and endorsed accreditation for five years subject to the implementation plan. VS drew the Board’s attention to the implementation plan annexed to the paper.
- 9.3. The Board agreed to endorse the accreditation of the trade mark iteration of the Brunel PCIP for the standard five year timeframe with IPReg to advise that in extenuating circumstances, such as significant concerns being raised or other aggravating factors, that the accreditation status may be subject to review prior to the end of the standard five year timeframe.

## 10. Board member contract renewals

10.1. CS and NR stated they were both willing to serve as Board members for a further term. The Chair strongly recommended that CS and NR were reappointed for a second term.

10.2. The Board agreed to reappoint CS and NR as Board members for a second term.

## 11. Other activities (not covered elsewhere):

### a. 3 x CEOs (27 May, 24 June)

FG reported that she had met with the CIPA and CITMA CEOs on 27 May 2020 and 24 June 2020.

[REDACTED]

### b. PAMIA (3 June)

FG reported that she and Redvers Cunningham had a positive discussion at their meeting on 3 June 2020.

[REDACTED]

### c. BEIS MRPQ Regulator event (5 June)

FG reported she had attended a BEIS event on the Mutual Recognition of Professional Qualifications (MRPQ) which is the mechanism by which non-UK attorneys can apply to come on to IPReg's register. It was noted that IPReg will no longer be subject to the current EU requirements after the end of the Brexit transition period. After that, it appears that there will be an option (as is currently the case) for aptitude tests that must be proportionate and held at least once a year. The MRPQ applies to a broad range of regulatory bodies and IPReg is the only legal regulator it applies to. It seems unlikely that the government will permit a period of adaptation which IPReg currently has as an option.

[REDACTED]

The Board noted the importance of preparing for both a deal and no deal scenarios and demonstrating the differences between the current regime and the regime to be put in place after 31 December 2020.

### d. LSB Relationship Management (10 June)

FG reported that she and VS attended regular meetings with LSB relationship managers. The 10 June 2020 meeting had covered the

[REDACTED]

[REDACTED]. It was noted that the LSB is proposing to change its guidance on applications to change practising fees and it is likely we will still have to consult even if fees are held level.

The Board noted that the LSB had asked regulators to provide information about their enforcement and appeal procedures.

FG also reported that the LSB will publish its work carried out in relation to LawTech. FG has an upcoming meeting with a member of the LawTech Panel and would provide feedback to the Board on the outcome of this meeting.

#### **e. Legal Choices Governance Board (1 July)**

FG noted that the May Board had discussed the funding of Legal Choices, but figures were not available at that point. The BSB's withdrawal from the scheme had resulted in a funding shortfall of c.£52,500 per year.

It was noted that IPReg's current contribution is £5,000 per year and it is proposed that IPReg increases its funding for 2019/2020 by £1,025 to £6,025 and for 2020/2021 by £800 to £5,800. Whilst this increased expenditure is not necessarily applicable solely to IP law it is in the wider public interest of legal regulators' work. It was noted that Legal Choices is now becoming a well-used resource for consumers especially in the areas of employment law and landlord and tenant law. It was also noted that the SRA currently bears the majority of funding costs for Legal Choices.

The Board noted that the relatively small investment would be positive from a reputational point of view and a cost effective way of complying with our statutory duties on public legal education. The Board considered that it would be appropriate to increase funding to cover the shortfall caused by the BSB's withdrawal but that due to the current uncertainty about future income from practising fees, this agreement would not go beyond 2021. The Board agreed to the increased funding for Legal Choices for 2019/2020 and 2020/2021.

#### **f. Remedies Programme Implementation Group (2 July)**

FG reported that all regulators, the LSB and the Legal Services Consumer Panel had attended the meeting of the Remedies Programme Implementation Group on 2 July 2020. The meeting covered COVID-19 and Legal Choices. It was noted that the LSB and the Consumer Panel are keen to drive forward "quality indicators" for consumers and that a meeting on this issue had been arranged for August. It was also noted that further information on a virtual international conference for regulators would be circulated.

## **PART B – CONFIDENTIAL ITEMS**

### **12. Complaints update**

12.1. SE presented complaints update paper. [REDACTED]

12.2. [REDACTED]

12.3. The Board noted complaints update paper.

### 13. Risk registers – General risks and Covid-19 risks

13.1. The Chair highlighted that although discussion of the risk register was in the confidential section of Board meetings, under the Information Sharing Protocol, we had agreed to notify CIPA and CITMA of red items on the risk register. [REDACTED]

[REDACTED]

13.2. [REDACTED]

Action: [REDACTED]

13.3. The Board also discussed the risk of the review of the regulatory arrangements being delayed due to COVID-19. [REDACTED]

[REDACTED]

Action: [REDACTED]

13.4. The Board noted that currently the risk register was assessed biannually at Board level. The Board agreed to have a standing item on the Board agenda to check the progress of any red items on the risk register and bring any new red items to the Board's attention.

Action: IPReg team to add standing item to Board agenda to assess existing / flag new red items on the risk register.

### 14. Regulatory Statement – for Part A and Part B: confirmation that, except where expressly stated, all matters are approved by the Patent Regulation Board and the Trade Mark Regulation Board.