

The Patent Regulation Board and the Trade Mark Regulation Board

Minutes

Thursday 21st January 2021 at 12 noon

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, Karen Duxbury [item 13 only], Victoria Swan

1. Apologies - no apologies were received.
2. Notification of any conflicts of interest – none.

PART A – NON-CONFIDENTIAL ITEMS

3. Minutes of December 2020 meeting and matters arising

3.1 Minutes agreed as a correct record, subject to a minor amendment

4. Action Log

4.1 The Chair noted that the statement about the Internal Markets Bill statement will be published on the website signposting to the ministerial assurances given about maintain the status quo for attorneys practising throughout the UK.

5. Discussion on Covid-19 – impact on:

IPReg team

5.1 FG reported that [REDACTED]

5.2 FG reported the team was generally coping very well in circumstances. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Action: FG to ensure that any relevant issues are reported to the LSB.

Market

5.3 The Board noted that there continued to be a good level of activity in some sectors (such as life sciences) but there might be other impacts from the pandemic or Brexit. There had been no significant exit of attorneys or firms so far in the 2021 annual renewal process other than for retirement.

6. Update on 2021 Annual Renewal Process

6.1 SE reported that the annual renewal process had already collected £475,041 in practising fees, compared to £194,917 at the same point last year; the budgeted figure is £906,936. The annual renewal process opened on 1 December 2020, a week earlier than previously. To date 50% of individual attorneys and 65% of firms had completed their annual return. The payment deadline is 31 January so on 1 February attorneys whose fees have not been paid will be advised of the intention to suspend them from the register on 1 March. There have been 22 applications for Voluntary Removal - 21 retirements and 1 moving abroad. To date, two applications have been received for fee waivers as a result of being adversely affected by the pandemic and both applications were successful.

7. Other activities (not covered elsewhere)

7.1 Law Tech UK Regulatory Response Unit (RRU) (15 December): the RRU had met to consider the projects being undertaken by the companies in the Regulatory Sandbox. [REDACTED]

[REDACTED]

[REDACTED]

7.2 Brexit - BEIS/Mutual Recognition from 01/01/21: SE reported a number of mutual recognition applications had been received just before the 31 December deadline. She has attended workshops and discussions with the Department for Business Enterprise and Industrial Strategy about the new temporary recognition process for applications received after the end of the transition period. There is no clarity yet on the Government's likely permanent approach.

7.3 We have been asked to facilitate a mutual recognition agreement with the Irish Intellectual Property Office and a meeting has been arranged. The Board noted that the Architects Registration Board has recently agreed an Memorandum of Understanding with its Ireland equivalent and that this model might be helpful. It was agreed to liaise with CIPA and CITMA on this work.

Action: AC and SF to work with SE on developing agreement with the Irish IPO and to update BEIS as appropriate.

7.4 Brexit - Definition of lawyer in EU Trade and Cooperation Agreement (TaCA): the Chair reported that CIPA and CITMA had identified that the TaCA definition of a “lawyer” is restricted to advocate, barrister or solicitor and does not include patent or trade mark attorneys. CIPA is concerned about the implications of this. The Chair had tabled a parliamentary question but the reply had not provided reassurance about the position. The Board agreed that we should continue to liaise with CIPA on this matter.

7.5 Patentanwaltskammer issues: the Board noted with concern matters relating to the ability of UK patent attorneys to continue practising in Germany and agreed that we should continue to work with CIPA on this matter. The Board noted that a change in German domestic law was planned which could resolve the matter if there were reciprocal arrangements in the UK and that this was a matter for the UK Government.

7.6. IPReg response to Office for Legal Complaints (OLC) budget consultation: the Chair noted the letter to Elisabeth Davies, the Chair, concerning a potential increase in the levy had resulted in a positive response in that the OLC had confirmed that it did not plan to increase £5,000.

7.7 Education Group Update: CS reported on a meeting with Queen Mary University London representatives [REDACTED] and [REDACTED] on 14 January about the most recent CITMA Student Survey results, QMUL’s annual report and online examinations. The Group considers that QMUL is generally moving in a positive direction, working on items identified over last couple of years, and that it appears to recognise that change was needed. However, the CITMA student survey feedback was not particularly positive (albeit that there had been a small numbers of responses). Administration issues, both general course administration and to some extent central admissions administration, appear to remain problematic. We plan to have a follow up meeting in May to keep QMUL focused on these issues. Generally speaking our original concerns are being dealt with and we are sympathetic to their response to the Covid issues. The Education Group hopes there will not be a need to continue with dedicated meetings, albeit that there are still some concerns about the quantity of real change in how the course is run.

7.8 VS reported that the sunset clause consultation to end recognition of historic qualifications was scheduled to end on 21 January but one extension has been agreed. It is anticipated that a rule change application may be required to the LSB and this is being discussed with them.

7.9 IPReg Higher Courts Advocacy Certificates: VS presented her Briefing Note on the application to the Legal Services Board made earlier this month by the Solicitors Regulation Authority regarding its Higher Rights of Audience (HRA) Assessments. This includes the proposal to allow only qualified solicitors to sit the HRA Assessments as of 1 April 2021. This effectively closes down the qualifying pathway route for attorneys seeking the Higher Courts Advocacy Certificates unless they are a practising solicitor or barrister. IPReg has until now relied upon the advocacy assessments of other legal regulators to issue its own Certificate. Although there are only 15 attorneys on the registers with this qualification Brexit and IPReg accrediting its own courses may mean there is increased market demand.

7.10 The Board agreed that IPReg should look to accredit standalone Higher Courts Advocacy Certificate provider(s). The accreditation application to be made, as a one-off, at no cost to the applicant and that if accreditation is finalised after 1 April, a grandfathered endorsement of the HRA Assessment could be applicable until accreditation is approved.

Action: VS to contact agencies to discuss IPReg accreditation of Higher Courts Advocacy qualifications

8. Diversity Survey

8.1 FG reported that we have a contract with Focal Point Training, with the questionnaire to be issued week commencing 25 January. These will inform three workshops, one focused upon the IPReg team, one with just the Board, and another with both Board and team.

PART B – NON-CONFIDENTIAL ITEMS

9. Complaints Update

9.1 SE presented the complaints paper, which the Board noted; there had been no complaints received in the last month. [REDACTED]

[REDACTED] The number of open cases is now down to 4.

Action: SE to provide median time of complaint handling

10. Legal Services Board

10.1 Chair's discussion with Helen Phillips 15 December:

[REDACTED]

10.2 [REDACTED]

[REDACTED]

10.3 Regulatory Performance Framework: the Chair commented that the LSB Regulatory Performance Assessment has designated IPReg as having one red risk and two ambers in relating to 3 separate outcomes. FG reported on each as follows.

10.4 Amber risk: Outcome RA2 “So they are effective and operate as intended, regulatory arrangements and supporting guidance documentation are regularly reviewed and, where necessary, updated, based on a robust evidence”: [REDACTED]

[REDACTED]

Action: FG to compile summary of responses to the Call for Evidence

Action: FG to provide report to LSB regarding consultation responses and plan going forward by 31 March (LSB deadline on performance update)

10.5 Amber risk: Outcome E2 “The regulator ensures that all complaints are reviewed on receipt and serious cases are prioritised and, where appropriate, referred to an interim orders panel”: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

10.6 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Action: [REDACTED]

Action: [REDACTED]

[REDACTED]

10.7 Red Risk: RA3 “The regulator has a robust evidence base from a range of sources on a) consumers’ needs and use of legal services b) new and emerging policy developments c) the regulated community and d) the market(s) regulated by it which informs its regulatory arrangements and approach”: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

10.8 [REDACTED]

[REDACTED]

[REDACTED]

10.9 VS presented a Briefing Note reflecting her 20 January discussion had with Tom May, LSB Research Manager about the LSB’s planned Small Business Legal Needs Survey. The survey will assess the outcomes for those who have had legal needs which have been seen through to completion, those with unmet legal needs, a look at the legal capability of small businesses and the implications of LawTech, Brexit, Covid and lockdowns. The discussion indicated that there may potential to input into the survey with costs around £8,000-9,000, possibly with a targeted boost to identify an

appropriate sample.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

10.10 [REDACTED]

[REDACTED]

[REDACTED]

Action: VS to continue to liaise with LSB on its survey

10.11 Relationship Management Meeting 6 January: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

10.12 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

10.13 Response to Consultation on Strategy and Business Plan: FG presented the paper setting out a draft approach. The Board agreed to delegate the wording of the final response to the Chair and CEO.

Action: FG to submit response to LSB Strategy and Business Plan Consultation

11. Risk Register

11.1 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

12. Regulatory Arrangements Review: there was nothing further to add on this matter.

12.1 CITMA Council Meeting 19 January: [REDACTED]

[REDACTED]

[REDACTED]

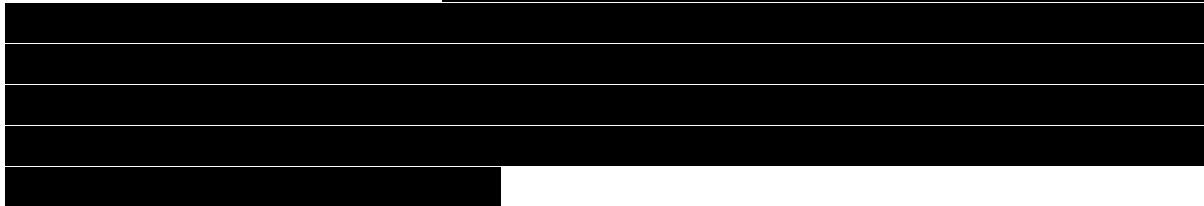
[REDACTED]

12.2 AK left the meeting.

12.3 KD joined the meeting.

13. Draft 2020 year-end figures

13.1 KD presented the draft figures.



13.2 KD left the meeting.

14. Office Space in Town (OSiT) Licence

14.1



Action: FG to agree to 3 month extension to licence

15. 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.