

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

### Minutes

Thursday 18 January 2024 at 2.20 p.m.

Orwell Room, 20 Little Britain, London EC1A 7DH

#### Attending:

Rt Hon Lord Smith of Finsbury (Chris Smith) - (IPReg Chair)

Justin Bukspan (Risk Working Group Member)

Sam Funnell (Data Working Group Chair and Risk Working Group Member)

Victor Olowe – Attending Remotely (Risk Working Group Chair and Governance Working Group Member)

Samantha Peters (Governance Working Group Chair and Risk Working Group Member)

Emma Reeve (Education Working Group and Governance Working Group Member)

Henrietta Rooney – Attending Remotely (Education Working Group Member)

**In attendance:** Fran Gillon (CEO), Shelley Edwards (Head of Registration), Victoria Swan – Attending Remotely (Director of Policy)

1. Apologies had been received from Alan Clamp and Katerina Kolyva.
2. No conflicts of interest were declared.

#### **Items for Decision/Discussion**

#### **3. Minutes of December 2023 Meeting and Matters Arising**

- 3.1. A Board member referred to the discussion about the Education Working Group (EWG). While the minutes accurately reflected the decision, it was important to recognise the significant work that the EWG undertook and the need to be transparent about its role. It was therefore agreed that the drafting would be amended to: 'Decision making was the role of the Board, rather than the EWG and the minutes of Board meetings should contain all information about how it had reached its decision'. It was also agreed that the final sentence be amended to: 'The Board decided that formal minutes of the EWG were not currently needed, but the Board would keep this under review'.
- 3.2. The Board approved the minutes subject to these changes and clarificatory drafting of paragraph 4.2.9 about disclosure of matters by Board members.

#### **4. 2024 Staff Pay Increase**

4.1. The Board:

- 4.1.1. Agreed a 5% increase for staff.

## 5. Review of Compensation Arrangements

- 5.1. The CEO presented the paper. IPReg had consulted on increasing the eligibility to make a claim to businesses with a turnover of up to £2 million a year, removing IPReg's ability to deduct its expenses from the fund and increasing the limit for an individual claim, from £25,000 to £30,000. These had been based on actuarial advice. The actuary had expressed confidence that the changes could be implemented with no increase in practising fees.
- 5.2. There had been several consultation responses and there was broad support for the proposed changes and the concept of a compensation fund. The actuary had had visibility of the summary of the responses and the Board paper and his changes had been incorporated into the papers.
- 5.3. The Board:
  - 5.3.1. Agreed that a draft rule change application should be submitted to the LSB.

**Action: Director of Policy and CEO to finalise draft rule change application to the LSB.**

## 6. IT System Update

- 6.1. The Head of Registration reported that the migration to the new hosting site had been completed. Work had commenced to write the data scripts required for the migration up to Drupal 10. It was anticipated that the system update would be implemented in April.

## 7. Education

### *Education Working Group Update*

- 7.1. The Chair noted that there had been a report on the November EWG meeting at the December Board. A further update would be provided in due course after the EWG's next meeting.

### *Barriers to Entry Project Update*

- 7.2. The CEO reported that the Education and Diversity Officer had been engaged in discussions with individuals who had expressed views about certain aspects of the qualification pathway or had directly approached IPReg. The next phase of the work would involve deciding what would be included in a call for evidence. It was possible that the apprenticeship work would be run as a separate strand. It was expected that a substantive update would be provided at the March Board.

## 8. Risk Working Group

- 8.1. The Risk Working Group Chair reported that the Risk Working Group (RWG) had met on 11 January. Going forward, with Sayer Vincent advising on our approach, the RWG should be able to develop a targeted list of the main risks. The RWG would update the Board in March but it was unlikely that its work would be finished by that date.

8.2. The RWG Chair noted that a RWG member's term of office on the Board was currently scheduled to end in March. He requested that the Board member should be retained as an adviser to the RWG after March.

8.3. The Board agreed:

8.3.1. To allow the Board member to remain as an advisor following the conclusion of their term of office.

## 9. Governance Action Plan Progress – EDI Policy and Action Plan

### *EDI policy*

9.1. The CEO reported that she had written a high-level EDI policy. There is a focus on the actions and what IPReg wanted to do to improve EDI. The Board discussed:

9.1.1. That the policy was cogent, clear and direct;

9.1.2. The welcome emphasis on diversity perspectives;

9.1.3. The fact that IPReg (unlike the SRA) did not have the power to impose financial penalties on firms who (in the SRA's case) had failed to provide diversity statistics. The power to impose financial penalties was exercised by the complaint examiners and the Joint Disciplinary Panel as part of the disciplinary process.

9.2. The Board congratulated the CEO on the EDI policy.

### *Governance Action Plan*

9.3. A Board member highlighted that the tasks in priority 3 of the governance Action Plan had included the proposal to produce an annual workplan/business plan and to provide quarterly reports on this at the Board meeting. However, the reports had not been scheduled. The CEO explained that the Board had agreed to await decisions on the key risk indicators that would come from the RWG before determining the KPIs that the Board would monitor. Rather than keep this part of the Action Plan open, the CEO proposed that the action should be incorporated into the work of the RWG, or that the Board revisit the KPIs that it required once the RWG had provided a report.

9.4. The Board:

9.4.1. Discussed that the importance of the report on progress against the business plan extended beyond its monitoring of KPIs;

9.4.2. Noted that the Chair had arranged appraisal meetings with all Board members;

9.4.3. Noted that, following suggested amendments at the December Board meeting, the remaining actions were for the CEO to finalise the policies on handling of complaints or concerns about Board members and to improve some of the drafting in the stakeholder engagement strategy. Although these were in the Action Log that the

Board considered the CEO requested permission to add these to the governance action plan document prior to publication. The Board agreed to this request.

**Action: CEO to update the governance action plan prior to publication in the Board papers**

## 10. Complaints Update

- 10.1. The Head of Registration reported that an additional complaint had been submitted before Christmas. The complaint was subsequently closed, but the complainant has since asked that this decision be reviewed.
- 10.2. A hearing in a long running matter was scheduled for February, but IPReg had had to apply to vacate the dates as counsel had failed to appropriately timetable the hearing with their clerk and he was unavailable. As the respondent was not engaging with IPReg, and IPReg was only calling one witness, it was not anticipated that the case would have to be delayed for long.
- 10.3. No complaints about IPReg registered attorneys had been submitted to the legal ombudsman.
- 10.4. Following the conclusion of the registration renewal period, the Head of Registration will review the data to identify any sole traders of firms that had failed to provide IPReg with its PII information in their annual return, as this is a high-risk area suggesting that appropriate insurance arrangements may not be in place.

**Action: Head of Registration to review sole traders' PII information.**

## 11. CEO's Report

### *2024 practising fees*

- 11.1. The CEO reported that the 2024 practising fees collection was progressing well. The Head of Registration stated that IPReg was expecting around £1.2 million from the 2024 practising fees. To date £643,000 had been received. The outstanding amount was £312,000 of which £251,000 had been invoiced. IPReg was three times ahead of last year. Over 80% of annual returns had been submitted for firms and attorneys. In total 24 voluntary removal applications had been submitted, 75% of which had cited retirement as their reason. Five people had said they were considering a career change, one had indicated they were moving abroad, and another had disclosed that their employer would no longer pay their fees.

### *Response to LSB business plan and budget consultation*

- 11.2. The CEO highlighted the draft response to the LSB's budget and business plan consultation. IPReg's response would suggest that the LSB reprioritise its work rather than increase the levy by the proposed 13.9%. Although there were some issues that were outside the LSB's control and it had statutory duties in relation to changes to regulatory arrangements and

practising fees, it did have the ability to decide whether to carry out reviews or investigations. The Board discussed:

11.2.1. Adding comparative information about the equivalent fee increase over the previous 3 years by the Professional Standards Authority (PSA) (which was less than 10% compared to the LSB's ~30% over the same period);

11.2.2. The fact that the same increase applied to all the frontline regulators and was not based on risk or allocated to the drivers of cost;

11.3. The Board agreed:

11.3.1. To send the response with the addition of information about the PSA's fees.

**Action: CEO to finalise response to LSB consultation on budget and business plan**

*New regulatory objective*

11.4. The CEO reminded the Board that the Economic Crime and Corporate Transparency Act 2023 (ECCTA) s209 would introduce a ninth regulatory objective. When it is commenced IPReg would have to, so far as reasonably practicable, act in a way that is compatible with, and which we consider most appropriate for, the purpose of promoting the prevention and detection of economic crime. The LSB had asked all regulators what actions they planned to take because of this. The initial thoughts on possible actions had been included in the CEO's report. The Board discussed:

11.4.1. What data could be gathered about the nature of the risk of economic crime in the regulated IP sector;

11.4.2. What actions might have the most impact;

11.4.3. That there may be information from PAMIA which would help to identify potential risky activities;

11.4.4. Undertaking a sectoral risk assessment which would consider risks across the sector, not just for economic crime.

**Action: CEO to consider how to conduct a sectoral risk assessment with external support**

*Contracts signed*

11.5. The CEO reported that IPReg had signed a contract with Sayer Vincent, who would provide support to IPReg on its risk management work. Sayer Vincent would provide 15 to 20 hours of support, at an hourly rate of [REDACTED] plus VAT.

*STEM Returners*

11.6. The CEO and Diversity and Education Officer had met Natalie Desty, the Managing Director of STEM Returners. STEM Returners focused exclusively on helping individuals with STEM

degrees who had taken a career break, return to work in their area of expertise. STEM Returners had had some significant successes and was looking for mentors to support people returning to work under the current scheme. The IPO, a partner organisation of STEM Returners, had run a successful workplace returners programme. The CEO had put Natalie Desty in touch with CIPA, IP Inclusive and the IP Federation.

## **12. Action Log**

12.1. The action log was noted.

## **13. Red Risks**

13.1. The one red risk was noted.

## **14. Regulatory Statement**

It was confirmed that, except where expressly stated, all matters were approved by the Patent Regulation Board and the Trade Mark Regulation Board.

## **15. Any Other Business**

15.1. There being no other business, the meeting closed at 15.25.