

The Patent Regulation Board and the Trade Mark Regulation Board

Agenda

Thursday 16 July 2020 at 12 noon

By video conference

1. Apologies
2. Notification of any conflicts of interest

PART A – NON-CONFIDENTIAL ITEMS

3. Minutes of May 2020 meeting and matters arising
4. Action Log (FG)
5. Discussion on Covid-19 – impact on:
 - a. IPReg team
 - b. Market
 - c. Budget including (i) Q2 2020 and (ii) 2021 practising fees
6. IPReg Limited company accounts (KD)
7. IGRs
 - a. Delegation Agreements and Information Sharing Protocols (FG) – no paper
 - b. Compliance with Board certification process (FG)
8. Education Group Update (VS, CS)
9. Brunel University Accreditation – trade mark qualification pathway (VS)
10. Board member contract renewals - [REDACTED] (Chair) – no paper
11. Other activities (not covered elsewhere):
 - a. 3 x CEOs (27 May, 24 June) (FG)
 - b. PAMIA (3 June) (FG)
 - c. BEIS MRPQ Regulator event (5 June) (FG)

- d. LSB Relationship Management (10 June) (FG, VS)
- e. Legal Choices Governance Board (1 July) (FG)
- f. Remedies Programme Implementation Group (2 July) (FG)

PART B –CONFIDENTIAL ITEMS

12. Complaints update (SE)

13. Risk registers – General risks + Covid-19 risks (FG)

14. Regulatory Statement

Confirmation that, except where expressly stated, all matters are approved by the Patent Regulation Board and the Trade Mark Regulation Board.

Date of Meeting in which action arose	Agenda Item	Action	Responsibility	Status	Notes/Update
May 2020 Board Meeting					
May-20	Pro bono	Liaise with CIPA and IP Federation re Professional Indemnity Insurance issues	FG	Ongoing	
May-20	IPReg Annual Report 2019	Draft headlines article and publish along with Annual Report	VS	Closed	
May-20	Performance Management Dataset	Finalise PMD and create introductory section providing wider context to some figures, submit PMD to LSB and publish	FG & VS	Closed	
May-20	LSB Diversity Information Request	Liaise with IP Inclusive	FG	Ongoing	
May-20	LSB Diversity Information Request	Submit Diversity Information Update to LSB	VS	Closed	
May-20	Brunel University Accreditation - Postgraduate Qualifying (Patent) Certificate	Inform Brunel of the Board decision to re-accredit the patent pathway subject to provision of a satisfactory implementation plan by end-June	VS	Closed	
May-20	Brunel University Accreditation - Postgraduate Qualifying (Patent) Certificate	Publish Assessment Report on website	VS	Ongoing	Will publish following July Board meeting's consideration of implementation plan and trade mark pathway supplemental report
March 2020 Board Meeting					
Mar-20	IGRs – progress on new Delegation Agreement	Communicate clarificatory amendment on audit on the Information Sharing Protocol.	FG	Closed	
Mar-20	Complaints update	Seek advice from an external adviser in relation to the debt owed to IPReg ()	MB	Open	
Mar-20	Complaints update	Discuss the impact of COVID-19 on the profession with PAMIA.	FG	Closed	

Mar-20	Complaints update	Liaise with PAMIA on timing of communications about insurance renewal	SE/FG	Closed	
January 2020 Board Meeting					
Jan-20	Regulatory arrangements review	Procure quotes for legal support	FG	Open	Meeting to be arranged with Kingsley Napley to discuss approach to pricing prior to contract
December 2019 Board Meeting					
Dec-19	Action log - Brunel University accreditation	Education Group to take forward Brunel's request to include a trade mark course in the reaccreditation assessment.	Education Group	Ongoing	Application received and assessment visit undertaken
Dec-19	Regulatory Forum 11 December 2019	Liaise with CIPA and CITMA on drafting a new Delegation Agreement. This would be considered by the March 2020 Board Meeting.	FG	Closed	
October 2019 Board Meeting					
Oct-19	LSB CEO Meeting	Invite Matthew Hill to Board meeting	FG	Open	Discussed with Matthew. Date TBC
Oct-19	Responses to IPReg consultations on pro bono and run-off cover	Submit a draft pro bono application to LSB early 2020 following discussions with respondents	FG	Ongoing	FG met with IP Federation 25 March. Need to discuss with CIPA re PII
April 2019 Board meeting					
Apr-19	Queen Mary University London - progress report	Continue to monitor and take action as required	Education Sub-Committee	Ongoing	

Report of the Directors and
Audited Financial Statements for the Year Ended 31 December 2019
for
The Intellectual Property Regulation
Board Limited

REDACTED IN FULL - FOR LATER PUBLICATION ON WEBSITE

Board paper 16 July 2020

IPReg compliance with the IGRs

Agenda Item: 7b

Author: Fran Gillon, CEO (fran.gillon@ipreg.org.uk)

Summary

1. The new Internal Governance Rules (IGRs) were published by the Legal Services Board (LSB) on 24 July 2019. Information certifying compliance with the IGRs has to be provided to the LSB by 23 July 2020. This paper sets out the analysis that we are compliant.

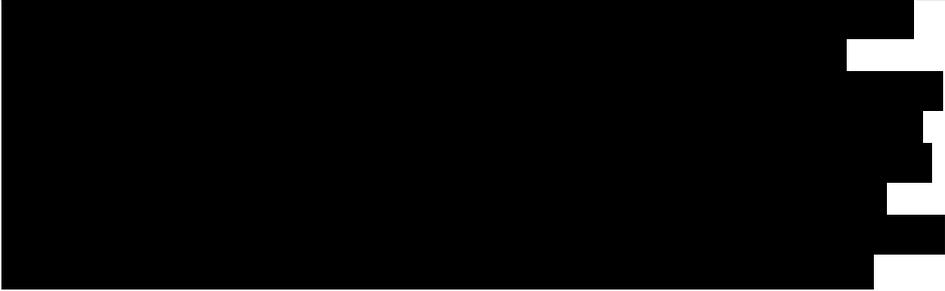
Recommendation(s)

2. The Board confirms that all Board members have read the IGRs, Delegation Agreements and Information Sharing Protocols.¹
3. The Board agrees:
 - the Rules of Procedure at **Annex A**;
 - the analysis in this paper and delegates submission of the compliance certificate to the Chair and CEO.

Risks and mitigations

Financial	There are no direct financial implications.
Legal	<p>In conducting this analysis, we have had regard to the LSB’s statutory Guidance on the IGRs.</p> <p>The LSB requires submission of a “compliance certificate” from each of the Approved Regulators and each regulatory body. As part of this process, we have considered whether:</p> <ul style="list-style-type: none"> - [REDACTED] ■ [REDACTED] ■ [REDACTED]

¹ Delegation Agreements and Protocols were circulated on 26 June 2020 for agreement by email.

	 <p>Rules of Procedure have been developed for the IPReg Board, TRB and PRB. These cover matters such as quorum, power to call meetings, procedure at meetings, etc. (Annex A).</p>
Reputational	The Delegation Agreement and Information Sharing Protocol will be a cornerstone of our relationship with CIPA and CITMA going forward.
Resources	Day to day work has been managed within our existing resources.

Analysis of compliance with each IGR

1. THE OVERARCHING DUTY

- (1) Each approved regulator has an overarching duty to ensure that the exercise of its regulatory functions is not prejudiced by any representative functions it may have.
- (2) In particular, each approved regulator must have arrangements in place to:
 - a. separate its regulatory functions from any representative functions it may have; and
 - b. maintain the independence of its regulatory functions as effectively as is reasonably practicable and consistent with Section 28 of the Act.
- (3) Each approved regulator must periodically review and, if reasonably practicable, improve its arrangements under sub-rule (2).

Compliance analysis

IPReg has entered into a Delegation Agreement (DA) with each of CIPA and CITMA. This delegates their regulatory functions to IPReg (and then onward to a PRB and TRB respectively). The DAs provide additional assurances (consistent with the IGRs) about IPReg's independence. The DAs were submitted to the LSB for approval on 8 July.

IPReg is fully compliant, subject to approval by the LSB of the DAs.

*SEPARATION AND ASSURANCE***2. DUTY TO DELEGATE**

- (1) Each approved regulator with both representative and regulatory functions must delegate the discharge of its regulatory functions in compliance with Section 28 of the Act to a separate body ('regulatory body').
- (2) After delegating its regulatory functions, the approved regulator must only retain a role to the extent that this is reasonably necessary to be assured that regulatory functions are being discharged in compliance with Section 28 of the Act or as otherwise required by law ('residual role').
- (3) An approved regulator must promptly inform its regulatory body if the approved regulator makes or intends to make a decision, plan, communication or other arrangement which may reasonably be considered likely to undermine the discharge of regulatory functions in compliance with Section 28 of the Act.

Compliance analysis

IPReg has entered into a Delegation Agreement (DA) with each of CIPA and CITMA. This delegates their regulatory functions to IPReg (and then onward to a PRB and TRB respectively). The DAs provide additional assurances (consistent with the IGRs) about IPReg's independence. The DAs were submitted to the LSB for approval on 8 July.

IPReg is fully compliant, subject to approval by the LSB of the DAs.

3. PROVISION OF ASSURANCE TO APPROVED REGULATOR

- (1) Each regulatory body shall provide sufficient information to the approved regulator with a residual role as is reasonably required for the approved regulator to be assured of the regulatory body's compliance with Section 28 of the Act.
- (2) The approved regulator with a residual role:
 - a. may only require further information from the regulatory body if it has reasonable grounds to do so;
 - b. must not require the regulatory body to provide information which may reasonably be considered likely to undermine the regulatory body's independence or effectiveness; and
 - c. must not use the information it receives for the representation, protection or promotion of the interests of the persons it represents unless and until it receives that information for that purpose or that information is made publicly available.

Compliance analysis

IPReg, CIPA and CITMA have agreed an Information Sharing Protocol (ISP) which sets out the information that IPReg will provide to CIPA and CITMA to enable them to assure themselves that IPReg is complying with LSA s28.

In the DAs, CIPA and CITMA agree that they have put in place effective safeguards to prevent the mis-use of information received for residual assurance purposes and it agrees to monitor these safeguards on a regular basis to ensure they remain effective.

IPReg is fully compliant.

REGULATORY AUTONOMY

4. REGULATORY AUTONOMY

- (1) The regulatory body must independently determine the most appropriate and effective way of discharging its functions in a way which is compatible with the regulatory objectives and having regard to the better regulation principles.
- (2) In particular, the regulatory body must determine:
 - a. its own governance, structure, priorities and strategy; and
 - b. whether any amendment to the regulatory arrangements is necessary and, if so, what form that amendment should take.
- (3) The approved regulator with a residual role:
 - a. may only seek to influence these determinations in the exercise of its representative functions; and
 - b. must not prejudice the independent judgement of the regulatory body.

Compliance analysis

Paragraph I of the Preamble to the DAs sets out in particular that IPReg can determine the matters in IGR 4(2). Clause 10 of the DAs set out how CIPA and CITMA will comply with IGR 4(3).

IPReg is fully compliant.

5. PROHIBITION ON DUAL ROLES

No person, whether remunerated or not, who is involved in decisions relating to regulatory functions may also be involved in the representative functions of the approved regulator, unless that person's role is within a shared service in accordance with Rule 11.

Compliance analysis

IPReg has analysed the roles of [REDACTED]

[REDACTED]

IPReg is fully compliant, subject to agreement by the LSB on [REDACTED].

CONDUCT AND RESPONSIBILITY

6. INDIVIDUAL CONDUCT

Each approved regulator must ensure that any individual, whether remunerated or not, with a role:

- a. in the exercise of regulatory functions; or
- b. which may otherwise reasonably be considered likely to affect regulatory functions

is aware of and complies with these Rules and the arrangements in place under Rule 1.

Compliance analysis

The IPReg Board meeting on 16 July 2020 confirmed that all Board members had read the IGRs and the DAs. The IPReg team has been advised of new arrangements and DAs.

IPReg is fully compliant.

GOVERNANCE

7. GOVERNANCE: LAY COMPOSITION

The board or equivalent body which makes decisions about how to exercise regulatory functions must be comprised of a majority of lay persons and the chair of that body must be a lay person.

Compliance analysis

The Chair of IPReg, the TRB and the PRB is lay. The TRB and PRB both have lay majorities. Until [REDACTED] term of office ends in June 2021, if there is ever a tied vote on a particular matter, the Chair would have a casting vote.

We have submitted a request under Rule 16(1) of the IGR (Saving Provisions) to the LSB to confirm that this arrangement will be treated as compliant with IGR 7 (**Annex D**).

IPReg is fully compliant, subject to agreement by the LSB.

8. THE REGULATORY BOARD: APPOINTMENTS AND TERMINATIONS

- (1) The regulatory body must independently determine and carry out its procedures for appointing, re-appointing and terminating members of its board or equivalent decision-making body including the chair, assessing their remuneration and carrying out appraisals.
- (2) The approved regulator with a residual role:
 - a. may only seek to influence these determinations in the exercise of its representative functions; and
 - b. must not prejudice the independent judgement of the regulatory body.

Compliance analysis

This requirement is covered in clauses 8 and 10 of the DAs.

IPReg is fully compliant.

BUDGET AND RESOURCES

9. REGULATORY RESOURCES

Each approved regulator must provide such resources as are reasonably required for its regulatory functions to be efficiently and effectively discharged.

Compliance analysis

This requirement is covered in clause 15 of the DAs.

IPReg is fully compliant.

10. REGULATORY BODY BUDGET

- (1) The regulatory body shall independently:
 - a. formulate its own budget in accordance with its priorities and strategy under Rule 4; and
 - b. determine the allocation of its resources.
- (2) The approved regulator with a residual role:
 - a. may only seek to influence these determinations in the exercise of its representative functions; and
 - b. must not prejudice the independent judgement of the regulatory body.

Compliance analysis

This requirement is covered in clause 15 of the DAs.

IPReg is fully compliant.

11. SHARED SERVICES

- (1) An approved regulator with a residual role and its regulatory body may only share a service if they are in agreement that:
 - a. this will not undermine, and could not reasonably be seen to undermine, the separation of regulatory and representative functions;
 - b. this is effective and appropriate for the regulatory body to discharge its regulatory functions; and
 - c. this is necessary to be efficient and reasonably cost-effective.
- (2) Any services shared between the approved regulator with a residual role and the regulatory body under Rule 11(1) must be provided to the regulatory body on a basis no less favourable than to the approved regulator with a residual role.

Compliance analysis

This requirement is not relevant to IPReg; we do not have any shared services with CIPA or CITMA.

*COMMUNICATION AND CANDOUR WITH THE LEGAL SERVICES BOARD***12. COMMUNICATION BY PERSONS INVOLVED IN REGULATION**

- (1) Each approved regulator must have arrangements in place for persons involved in the exercise of its regulatory functions to communicate directly with the Legal Services Board, Consumer Panel, OLC and other approved regulators.
- (2) In particular these arrangements must enable individuals to notify the Legal Services Board directly if they consider that the independence or effectiveness of regulatory functions is being or will be prejudiced.

Compliance analysis

This requirement is covered in clause 16 of the DAs.

IPReg is fully compliant.

13. CANDOUR ABOUT COMPLIANCE

- (1) Each approved regulator must respond promptly and fully to all requests for information by the Legal Services Board made for the purposes of assessing and assuring compliance with these Rules.
- (2) Each approved regulator must ensure that any issue in relation to compliance with these Rules which cannot be or has not been remedied within a reasonable period is reported in writing to the Legal Services Board, whether this information is requested or not.

Compliance analysis

This requirement is covered in clause 17 of the DAs.

IPReg is fully compliant.

14. DISPUTES AND REFERRALS FOR CLARIFICATION

- (1) If an approved regulator has been unable to resolve any point arising under or in connection with these Rules, it may refer that point to the Legal Services Board for clarification.
- (2) In the event of a dispute between an approved regulator with a residual role and its regulatory body in relation to any point arising under or in connection with these Rules, the dispute must be referred to the Legal Services Board before any further action is taken.
- (3) Any response provided by the Legal Services Board shall be determinative unless expressly indicated otherwise.

Compliance analysis

This requirement is covered in clause 20 of the DAs.

IPReg is fully compliant.

GUIDANCE

15. GUIDANCE

In seeking to comply with these Rules, each approved regulator must have regard to any guidance issued by the Legal Services Board under Section 162 of the Act.

Compliance analysis

IPReg has had regard to the LSB's Guidance in its negotiations with CIPA and CITMA on the DAs. We will continue to refer to the Guidance as and when necessary.

IPReg is fully compliant.

SAVING PROVISIONS

16. SAVING PROVISIONS

- (1) No approved regulator shall be in breach of these Rules if the action or omission, which would otherwise constitute the breach, is:
 - a. in relation to an approved regulator with a residual role, reasonably necessary to satisfy its residual role;

- b. required by primary legislation; or
 - c. carried out with the prior written authorisation of the Legal Services Board.
- (2) In the event of a dispute as to whether any of these Saving Provisions apply, the matter must be referred to the Legal Services Board before any action is taken and any response will be determinative in accordance with Rule 14.

Compliance analysis

IPReg has submitted requests to the LSB – see IGRs 5 and 7 for details.

EXEMPTIONS

17. EXEMPTIONS

The following Rules do not apply to an approved regulator with only regulatory functions:

- a. Rules 2 to 5;
- b. Rule 8;
- c. Rules 10 and 11;
- d. Rule 14(2); and
- e. Rule 16(1)(a).

Compliance analysis

Not required.

Annex B

[REDACTED]

[Redacted text block]



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w www.ipreg.org.uk

By email only

Matthew Hill
Chief Executive
Legal Services Board

3 July 2020

Dear Matthew

Re: Internal Governance Rules (IGR) – [REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Yours sincerely

A handwritten signature in blue ink, appearing to read "Fran Gillon", with a horizontal flourish underneath.

Fran Gillon

Chief Executive

By email only

Matthew Hill
Chief Executive
Legal Services Board

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e ipreg@ipreg.org.uk
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24 June 2020

Dear Matthew

Re: Internal Governance Rules – Governance: lay composition (Rule 7)

Further to my letter of 5 June 2020, I have now received confirmation from [REDACTED] about the process to be followed in making applications to the LSB for arrangements under the IGRs to be considered compliant. This letter sets out IPReg's analysis of the requirements in the IGRs for a lay majority and the current composition of the IPReg Board. It asks the LSB to consider whether the arrangements we intend to put in place will be compliant with the IGRs. [REDACTED]

The various Boards

The IPReg Board currently comprises 4 lay members, a lay Chair, 2 trade mark attorneys and 3 patent attorneys.

The Patent Regulation Board (PRB) is drawn from the IPReg Board and comprises 3 patent attorneys, 4 lay members and a lay Chair.

The Trade Mark Regulation Board (TRB) is drawn from the IPReg Board and comprises 2 trade mark attorneys, 4 lay members and a lay Chair.

The IGRs and associated guidance

The IGRs Rule 7 (Governance: lay composition) state:

The Board or equivalent body which makes decisions about how to exercise regulatory functions must be comprised of a majority of lay persons and the chair of that body must be a lay person.

The LSB's Guidance on the IGRs states:

Regulation should be predominantly governed by lay persons.

The proposed Delegation Agreements

The proposed Delegation Agreements between CIPA, CITMA and IPReg state:

Together with CIPA, CITMA has established IPReg as the overarching regulatory joint board, to which each of CITMA and CIPA have delegated their respective regulatory functions. IPReg will remain a limited company so that the membership of its board will comprise directors (to be known as “the IPReg Board”). In order to exercise its regulatory functions, the IPReg Board will separately establish the Trade Mark Attorney Regulation Board (“TRB”) and the Patent Attorney Regulation Board (“PRB”). For the purpose of exercising the regulatory functions delegated to it, the IPReg Board will be responsible for determining the composition of its board, the TRB and the PRB in accordance with the IGRs. The TRB and the PRB may sit jointly as the “IPReg Board” whose composition will also be subject to the IGRs.

And, further, that:

The TRB/PRB shall exercise and undertake all regulatory functions of IPReg which have been delegated to IPReg by CITMA/CIPA. IPReg will provide day to day support for the operation of the TRB/PRB.

Under the proposed Delegation Agreements between CIPA, CITMA and IPReg it is intended that:

(i) the regulatory functions of CITMA, as an approved regulator, which have been delegated to IPReg are to be exercised and undertaken by the TRB and (ii) likewise, the regulatory functions of CIPA, as an approved regulator, which have been delegated to IPReg are to be exercised and undertaken by the PRB. IPReg will ensure that those issues that only relate to trade mark attorneys are considered solely by the TRB and that those issues that only relate to patent attorneys are considered solely by the PRB. IPReg will ensure that it/PRB/TRB carries out regulatory functions in a transparent, proportionate and non-discriminatory way at all times. IPReg will always have due regard to the need for equity in the regulation of the patent attorney profession and the trade mark attorney profession in the manner in which it/PRB/TRB carries out these functions.

IPReg’s strategy

The IPReg Board wants to reduce its overall size and has decided to do this through natural wastage when Board members’ terms end. The next professional Board member to step down is [REDACTED] is a PRB member, although [REDACTED] is also a regulated trade mark attorney. [REDACTED] second term of office ends in June 2021. Therefore, until June next year, although the bodies which will exercise the delegated regulatory functions (the TRB and PRB) will each have a lay majority, there will be an equal number of lay and professional members on the IPReg Board.

Neither the IPReg Board nor the PRB want to lose [REDACTED] experience and expertise at what is likely to be a very difficult time for those we regulate and as we embark on our wide-ranging review of our regulatory arrangements. We consider that [REDACTED] continued contribution to IPReg and the PRB’s activities is necessary and proportionate for the effective regulation of patent attorneys and the wider IP market(s).

To ensure compliance with IGR 7 (Governance: Lay Composition) we therefore intend that until [REDACTED] steps down, if there were ever a tied vote on a particular matter, the lay Chair would have a casting vote. It is unlikely that this arrangement would ever be called on in practice since it is extremely rare to have a vote on any matter - decisions are arrived at by consensus. I note that this eventuality is anticipated in the LSB Board’s Rules of Procedure (at paragraph 3.6.7) and understand that this arrangement would be similar to the way in which the LSB operated during a vacancy for one of its Board members to ensure compliance with the requirements of Schedule 2 to the Legal Services Act 2007.

We are therefore submitting a request under Rule 16(1) of the IGR (Saving Provisions) for the LSB to confirm that this arrangement will be treated as compliant with IGR 7 since it follows the LSB's guidance for regulation to be "predominantly governed by lay persons".

I am happy to write to the LSB after [REDACTED] term of office ends to confirm the overall composition of the IPReg Board at that point.

Please let me know if you need any additional information.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Fran Gillon', with a horizontal line underneath.

Fran Gillon

Chief Executive

Board Meeting 16 July 2020

Information Paper: Education Group Update

Agenda Item: 8

Lead Board Member: Caroline Seddon, Chair of Education Group

Author: Victoria Swan, Director of Policy (victoria.swan@ipreg.org.uk)

1. Summary

- 1.1 Emerging education concerns informed the decision made by the April 2019 meeting of the IPReg Board to establish a dedicated group to help tackle these issues. The Education Group met for the fourth time on 25th June 2020.
- 1.2 This paper seeks to provide an overview of the activities and outputs of the Education Group since those reported to the March 2020 meeting of the Board.

2. Recommendation(s)

- 2.1 The Board is asked to note this paper.

3. Risks and mitigations

Financial	There will be financial implications for agencies seeking accreditation by IPReg pending the Education Group's work on charging a cost reflective of resources allocated to consideration of an application for accreditation (currently an IPReg subsidisation of accreditation costs).
Legal	There are no specific legal risks.
Reputational	It is important that the examinations and courses linked with attorney qualification pathways are consistent in their delivery of high standards and learning outcomes; where this is found not to be the case, IPReg must seek to address any quality issues and to be seen doing so.
Resources	Delivery of much of the Education Group work programme has been undertaken with IPReg office resources. Going forward, the regulatory arrangements/broader Handbook review will likely require specialist independent resources.

4. Work plan

- 4.1 Current status of work plan items:

Quality Assurance Remedy	Status	Work being/to be undertaken
a) publication of assessment reports, their findings and recommendations made to	Completed	Accredited agencies formally informed of new policy; upon Board endorsement of Brunel accreditation, the report will be published

qualification pathway accreditation applicant bodies		
b) requiring regular updates on progress against accreditation implementation plans	Completed	Accredited agencies formally informed of new policy
c) requiring annual reports (to include student feedback, external examiners reports findings, and improvements made as a result)	Completed	Accredited agencies formally informed of annual reporting requirements; VS to contact each to agree timeframes to submit those reports
d) developing a process for withdrawing accreditation from providers who do not maintain the accreditation standards	In progress – elsewhere on agenda	Consultation undertaken on high-level accreditation withdrawal procedure, revised procedure is an item on this meeting’s agenda
e) cost reflective charges for accreditation (including some allocation of officer time)	In progress	VS recording office time allocation to Brunel accreditation exercise and to obtain a proxy Education Group time allocation, with a view to being able to advise applicants going forward of the likely time allocation and the rates at which that will be charged in order that a more cost reflective charge is made (i.e. not a flat fee, nor a subsidised recharge).
f) encouraging more pathway providers – other university/ examination offers	In progress – elsewhere on agenda	Accreditation application made by Brunel University regarding a trade mark pathway and is an item on this meeting’s agenda.
g) provision of online Frequently Asked Questions	Completed	Frequently Asked Questions published which seek to address a range of admission queries including current accredited pathway options, exemptions, admission as a non-UK professional and experience requirements.
h) review of the Accreditation Handbook	Medium-term aim	Not yet begun, though some useful input received through the accreditation withdrawal procedure consultation; additionally, the first round of annual reports is likely to help inform the first iteration of the review.
i) whether to quality assure the work-based element of attorneys’ training	Medium-term aim	Not yet begun, possibly for consideration within regulatory arrangements review.
j) encouraging more pathway providers – consideration given to apprenticeships	Longer-term aim	Not yet begun, though Brunel University Double Major proposal would likely offer a year work placement.
k) changing our overall work priorities or automating some of the process	Longer-term aim	Not yet begun.

5. Queen Mary University London (QMUL) – Quality Concerns

5.1 The Education Group continues to work with QMUL regarding the feedback shared by CITMA indicating quality concerns with the trade mark qualification pathway. On 5 June, the Education Group had a (Zoom) meeting with [REDACTED] the Director of the Centre for

Commercial Law Studies and [REDACTED] the independent consultant appointed by QMUL to review the subject content of the course. This was followed [TBC] by a formal written statement of steps to be taken in light of the resulting recommendations of [REDACTED] report. On 20 July, the Education Group has a (Zoom) meeting scheduled with QMUL representatives to discuss the operational concerns and actions undertaken to remedy them. This will also afford the Education Group the opportunity to meet with the new Chair of the Programme Management Group, set up by QMUL at the suggestion of IPReg, [REDACTED]

6. Patent Qualifying Examinations

- 6.1 The Education Group considered the Patent Examination Board proposal to deliver the examinations in October as scheduled via an online platform. The Education Group recommended that consideration be given to usage of anti-plagiarism software. The PEB determined that a invigilation approach was appropriate and whilst this approach was broadly accepted by the Education Group, it was on the basis of there being appropriate safeguards and the post-delivery analysis/review, and that the Education Group's Chair would encourage consideration of a system such as the [Australian online supervision](#) which includes webcam and mirror and 360 degree scan.
- 6.2 VS is contacting the accredited agencies to gauge their current proposals for delivery of the coming academic year's programmes in light of current government guidance on Covid-19.

7. Basic Litigation Skills Courses

- 7.1 CPD Training (UK): made an application for reaccreditation of its physically delivered IPReg-accredited Basic Litigation Skills Course and an application for accreditation of an online iteration of its course in light of the Covid-19 pandemic. It had requested consideration of the accreditation assessment be undertaken prior to the July meeting of Board in order to commence online course bookings as soon as possible. The assessment report authored by the independent specialist assessors, [REDACTED] and [REDACTED], was considered remotely by the Board and endorsed by all. CPD Training UK was advised of the endorsement of accreditation of both course iterations on 23 June. This was on the basis of the two report recommendations regarding an addition to the Candidate Handbook and a pilot review of the online assessment, both of which have been actioned and with which [REDACTED] the lead assessor was content, as was the IPReg office.
- 7.2 Sheffield University: has advised it will no longer be offering its Basic Litigation Skills Course (leaving CPD Training and Nottingham Trent University as the live providers of the course).

8. IPReg Accreditation Withdrawal Procedure

- 8.1 A high level procedure was consulted upon over a 8 week period ending 12 June. Consultations responses were received from CIPA, CITMA, CPD Training UK, Nottingham Trent University, the Patent Examination Board, and Queen Mary University London. In light of the detailed and valuable feedback substantial revisions will be made to the procedure including:
- Creating a separate policy and procedure (including acceptable grounds for appeal)
 - Explicit preamble that it is hoped there is not a time when the procedure has to be invoked and will always seek wherever possible to work with the provider to prevent this

- More detail is sought, to include a review of use of language, terminology, definitions and examples
- IPReg will seek to verify the facts
- Clarity that if concerns were raised during an academic year or examination cohort, it is especially important for immediate discussion and to agree mitigation with an aim that the accreditation withdrawal does not take place during a live offer but at its end (so as not to impact upon that cohort where possible)
- Full list of grounds on which a decision is made
- Decision would be the decision of the Board having fully considered all of the evidence provided
- Review appeals grounds, timeframes, mechanisms and decision makers
- Publish decision only upon expiration of appeal timeframe and in keeping with publications policy.

A notice will be issued on the consultation webpage and individual notifications to respondents thanking them for their feedback, value the points made and we are taking full and serious account of them and will be providing, in due course, substantial revisions in light of all that feedback.

9. LSB Ongoing Competence Review

- 9.1 The Education Group made a response (Annex) to the LSB's Call for Evidence, welcoming the review and advising it would be very interested in its findings in light of its own regulatory arrangements review.

Annex – IPReg Response to LSB Ongoing Competence Review Call for Evidence

Date: 26 June 2020

██████████
Legal Services Board
The Rookery (Third Floor)
2 Dyott Street
London
WC1A 1DE

Sent by email only: ongoingcompetence@legalservicesboard.org.uk

Dear ██████████

Ongoing Competence [Call for Evidence](#)

IPReg's own scheduled review of its regulatory arrangements will include ongoing competence meaning the opportunity to inform the LSB's Review regarding Ongoing Competence is very welcome. IPReg does not intend to make a detailed submission to the Call for Evidence, this letter comprises the extent of its response.

Successful entry on to the patent attorney or trade mark attorney registers include both experience and qualification requirements. The [Competency Frameworks](#) set out the skills set, breadth and depth of knowledge, which are expected at admission on to the register. Whilst these are not binding requirements, they were created with the intention of being useful tools for both trainees and their supervisors in tracking progress towards qualification.

IPReg understands it is not just important that individuals at admission to legal regulatory registers have the necessary skills, knowledge and attributes to provide good quality services, but that these are kept up to date and relevant over time in their post-qualification practice.

IPReg places [Continuing Professional Development \(CPD\) requirements](#) on its attorneys. Attorneys are only able to renew their practising certificate for the next practising year upon having submitted a compliant CPD Declaration for the previous practice year, or having applied for and been granted a CPD waiver (an attorney can make waiver applications through their online IPReg account).

As you are likely aware, IPReg had been scheduled to commence its own Call for Evidence, the starting point for a detailed regulatory arrangements review. This CfE has necessarily been deferred due to the current Covid-19 pandemic and will go ahead as soon as practicably able to. When undertaking the review we will be very interested in the findings of the LSB's valuable piece of work in this area.

Kind regards

Lord Smith of Finsbury



Chair, Intellectual Property Regulation Board

Board Meeting 16 July 2020

Decision paper: Brunel University Accreditation – Postgraduate in Intellectual Property Certificate for the Trade Mark Pathway

Agenda Item: 9

Author: Victoria Swan, Director of Policy victoria.swan@ipreg.org.uk

1. Summary

- 1.1 This paper concerns the proposed (re)accreditation of the Foundation Level Qualification trade mark iteration of the Postgraduate Certificate in Intellectual Property (PCIP) proposed by Brunel University.
- 1.2 IPReg inherited their PCIP patent iteration from the JEB¹ and undertook an accreditation exercise in 2015 (prior to the November 2016 introduction of the [IPReg Accreditation Handbook Standards](#)) and again in 2020, with the May IPReg Board meeting approving its reaccreditation subject to a satisfactory implementation plan (see Annex A) relating to the assessors' recommendations.
- 1.3 The JEB-endorsed trade mark iteration of the PCIP was not subject to accreditation in 2015, as the then IPReg Executive considered there was insufficient market demand for three providers (alongside the offers of the universities of Bournemouth and Queen Mary London) of a trade mark offer. Brunel considers there is sufficient market demand and the IPReg Education Group is of the position that it is for the market to decide the level and spread of provision².
- 1.4 Independent specialists, [REDACTED] and [REDACTED] were appointed to take forward the PCIP accreditation assessment. Their supplemental report (Annex B)i) to the broader PCIP Assessor Report (endorsed by May 2020 Board) endorses accreditation of the trade mark iteration of the pathway subject to clarification of some elements (Annex B)ii).
- 1.5 Should the Board approve accreditation, IPReg will be explicit with Brunel, as with all Examination Agencies, that the 5 years accreditation status timeframe³ may become subject to review in extenuating circumstance such as significant concerns being raised.

2. Recommendations

- 2.1 The Board is asked to endorse accreditation of the trade mark iteration of the Brunel PCIP for the standard five-years timeframe with IPReg to advise that in extenuating circumstances, such as significant concerns being raised or other aggravating factors, that

¹ The Joint Examination Board of ITMA (as was then) and CIPA.

² With the regulator's role to determine whether courses, both existing and proposed, are fit for purpose and to ensure succession for students should a course be ultimately unsustainable.

³ Please note IPReg is currently [consulting on a Draft Accreditation Withdrawal Procedure](#).

the accreditation status may be subject to review prior to the end of the standard 5-year timeframe.

3. Risks and mitigations

Financial	As with all accreditation exercises, the costs of the consultants were re-charged to the Examination Agency (EA). As historically agreed, a £200 a day cost for the lead consultant was absorbed by IPReg. This was to mitigate the potential costs differential with the other appointed independent education consultant (whose work, ultimately, was not completed due to extenuating circumstances). Following completion of this accreditation exercise, it is considered that the cost differential absorption cycle is at an end given all existing EAs have been accredited against this level of re-charging. Additionally, the IPReg office has been recording the time allocated to the Brunel accreditation exercise to help inform the Education Group review of accreditation costs charged. The professional practitioner assessor's day rate is set at that of the IPReg Board at the time of the accreditation exercise.
Legal	The accreditation process seeks to address the risk of non-delivery of Outcome 2 of the LSB Guidance on regulatory arrangements for education and training issued under section 162 of the Legal Services Act 2007 : <i>Providers of education and training have the flexibility to determine how to deliver training, education and experience which meets the outcomes required.</i>
Reputational	The accreditation work seeks to provide consistency of content, quality and reputation of course/examination across the EAs. IPReg is explicit that the 5 years accreditation status timeframe may become subject to review in extenuating circumstance such as significant concerns being raised. No conflicts of interest declared by assessors and/or reviewed organisations.
Resources	Specialist resources of [REDACTED] and [REDACTED] were appointed as the assessment team reviewing the Brunel provision, as informed by their experience in undertaking the 2017-18 FLQ reviews (of Bournemouth, the PEB and Queen Mary) and the 2018-19 ALQ review of Nottingham.

4. Accreditation Timetable and Process

Reaccreditation of attorney qualification pathways

- 4.1 The universities of Bournemouth, Brunel, Nottingham Trent, Queen Mary London, and the Patent Examination Board (PEB)⁴, all provide IPReg-accredited elements of attorney qualification pathways. Brunel is the last⁵ of these to be assessed against the [IPReg Accreditation Handbook](#).
- 4.2 The May 2020 meeting of Board agreed to the (re)accreditation of the PCIP patent iteration, subject to Brunel submitting a satisfactory implementation plan regarding the assessment report recommendations (Annex A as implementation plan likely also to impact upon the trade mark iteration). The supplemental report (Annex B) is focused upon the trade mark iteration of that same certificate.

⁴ Only the foundation examinations have been subject to assessment under the Accreditation Handbook, the final examinations have not yet been subject to assessment against the accreditation standards as set out in the Handbook (the FLQ has been assessed), pending the Mercer Review.

██████████ (lead consultant, qualified solicitor, Associate Professor, professional legal education consultant) and ██████████ (professional practitioner input) were appointed to undertake the reaccreditation exercise, having also undertaken the assessments as at 4.1.

4.4 Brunel submitted an accreditation application in early January 2020 using the IPReg application template⁶. The template requires a broad range of evidence sources (as referenced in the Accreditation Handbook) to support the narrative including:

- Programme Specification
- Quality Assurance Agency Institute Audit Review and any associated action plans
- External Examiners Report and related action plans
- Programme Admissions Policy
- Staff/student ratios
- Sample examination papers/essays/test/answers/scripts
- Pass and fail rates
- Admissions and Re-sits Policies
- Teaching staff info/ membership of professional bodies/practitioner input
- Progression, awards and destination data
- Student satisfaction surveys and changes made.

4.5 Whilst Brunel had declared intention to include the trade mark pathway within its initial PCIP application, it contained documentation relating only to the patent route, accompanied by commitments to providing a trade mark pathway as determined and agreed with IPReg. Given this was insufficient to enable an accreditation determination to be made, IPReg reiterated to Brunel requirement for comprehensive trade mark documentation, including the programme specification, credit weightings and learning outcomes, and these were provided at the end of April.

4.6 ██████████ and ██████████ visited Brunel University at the end of February and met with staff and students. Their independent Assessor Report regarding the patent pathway element of the Postgraduate Certificate was endorsed⁷ by the May 2020 meeting of the Board. The patent pathway report had a number of recommendations which included: review of core subjects, credits and progression, English Legal System teaching and assessment, reviewing the team's quality assurance mechanisms; which are likely to impact upon the trade mark pathway also and the reason behind inclusion of the Brunel implementation plan within this report. The corresponding implementation plan provided by Brunel is attached as an annex.

4.7 The supplemental report and the Brunel response (Annex B) was considered by the 23 June meeting of the Education Group which approved endorsing accreditation of the trade mark pathway to the July meeting of Board. Board members Caroline Seddon (education specialist) and Keith Howick (member of the Working Group which devised the IPReg Accreditation Handbook) were further provided with the Brunel implementation plan (Annex A) - TBA.

5. Recommendations

5.1 The Board is asked to endorse accreditation of the trade mark iteration of the Brunel PCIP for the standard five-years timeframe with IPReg to advise that in extenuating circumstances, such as significant concerns being raised or other aggravating factors, that

⁶ Based upon the requirements of the [IPReg Accreditation Handbook](#).

⁷ Excepting Measures 1 and 2.

the accreditation status may be subject to review prior to the end of the standard 5-year timeframe.

6. Annexure

6.1 Annex A: PG Cert in Intellectual Property (patent) Accreditation Assessor Report Recommendations - Brunel University Implementation Plan

6.2 Annex B

i): PG Cert in Intellectual Property - Trade Mark Supplemental Report

ii) Brunel University Response to comments/queries within B)i)

Annex A: PG Certificate in Intellectual Property (patent) Accreditation Assessor Report Recommendations – Brunel University Implementation Plan

By [REDACTED] Brunel Law School

Dear Victoria

We have responded to all your helpful recommendations which are taken fully on board by Brunel. We are very grateful for those as we do feel that addressing these recommendations will enable us to improve our programmes and improve our students' experience.

Below are my responses to each individual recommendation. I hope that I have addressed all your concerns.

Please do not hesitate to contact me should you require any further information.

Yours sincerely

Recommendation 1

Credits- all module block outlines have the correct number of hours of study allocated and the School of Law keep in mind that one QAA credit is generally taken to be equivalent to ten hours of learning.

Recommendation 1 will be addressed accordingly between October 2020 and March 2021 as part of our internal university programme audit and through minor programme/module modifications in consultation with the Dean of Education, QAA officer and the Pg Studies Director.

Recommendation 2

Credits- Prospective students receive clear written advice re the amount of self study required especially where they are being advised that they can work full time. Teaching methodology be adopted to promote prereading in order to ensure that the required number of study hours for a certificate is being met (so far as is possible) in order to maintain consistency of standards.

Recommendation 2 will be actioned for each module before the beginning of each term and in September 2020 for the Programme Study Pack so students receive this information upon arrival. A lot of this is already actioned in the Trade Marks and Managing IP study pack but the same action points will be adopted in connection with the remaining modules. The process will be completed by January 2021.

Recommendation 3

Credits and progression- Formal written formative assessments with written feedback, at least one piece) be adopted for each module to endorse the required student study hours and help with student progression.

Recommendation 3 will be actioned at the beginning of each term for each individual module. And will be clearly indicated in the text of the Study Pack. The process will be completed by January 2021.

Recommendation 4

The newly drafted Programme Specifications adopt the correct wording re the patent attorney FLQ and drop the words "gain exemption". The PgCert IP programme specification makes it clear that there are no "optional blocks".

Recommendation 4 will be addressed accordingly together with Rec 1 and other recommendations which require minor modifications between October 2020 and March 2021 as part of our internal

university programme audit and through minor programme/module modifications in consultation with the Dean of Education, QAA officer and the Pg Studies Director.

Recommendation 5

Schedule A : the IP law subjects and Professional Ethics topics as set out in Schedule A are covered however the programme specifications, modular block outlines and student study packs do not make this clear. Neither does the existing mapping document. These documents be redrafted to ensure that all stakeholders can identify exactly where the Schedule A subjects are being covered and assessed. It is suggested that the mapping document be put into table format clearly indicating exactly where each of the subjects and transferable skills (as required by IPReg Schedule A and B) is taught ie in which teaching session of which module.

Recommendation 5 will be actioned between October 2020 and December 2020.

Recommendation 6

The teaching and assessment of the English Legal System be reviewed to ensure it or any new iteration (see para 6 above) satisfies IPReg requirements.

A new syllabus has been drafted and implemented as Part of the Managing IP module and hours have been increased in terms of lectures, self-study, final, continuous and formative assessments and those have been submitted as part of the accreditation process and our initial responses. The proposed new format has been approved by the external IPREG assessors.

Recommendation 7

Level : The minimum level required by the IPReg is 6. The School of Law reassess the level of the PGCert to ensure that learning outcomes, teaching and assessment is aligned to at least level 6, that this is appropriately reflected in all the documentation (including the study guide and study packs). Please note that the wording of the learning outcomes currently stated in the newly drafted PgCert IP programme specification do not reflect level 6 and are not compatible with those set out in the LLM programme specification, despite LLM and PgCert students being taught together.

We have addressed this query about appropriate level as part of the accreditation discussions and are happy to confirm that Recommendation 7 will be addressed fully and accordingly between October 2020 and March 2021 as part of our internal university programme audit and through minor programme/module modifications in consultation with the Dean of Education, QAA officer and the Pg Studies Director.

Recommendation 8

Schedule B :The School of Law review the documentation and in particular student study guide and study packs to ensure that it is clear what transferable skills are being learnt and assessed, and at what level. That the Schedule B transferable skills be included in the mapping document (see above). That transferable skills requirements are clearly explained to students in study packs.

This will be actioned by September 2020 for the PgCErt Study Pack and before the beginning of each term for the individual modules.

Recommendation 9

A specific statement be included in the study guide and study packs as to how and where the content of the University course covers the IPReg core subjects.

This will be actioned by September 2021 for the PgCert study pack and before the beginning of each term for each individual module in consultation with IPREG.

Recommendation 10

Specific detailed clear and transparent assessment criteria based on learning outcomes and the minimum level required of students are published so that students can be clear as to what is expected of them and know what they need to demonstrate and to what level to achieve a pass.

These should be used to create marking schemes and will aid consistency of marking.

This will be actioned during the Exam Scrutiny Panels designed to set and oversee that the exam format is appropriate each term.

Recommendation 11

The process for IP team internal annual review is reviewed to ensure that all IP team members, both academics and practitioners, are included in quality assurance and quality enhancement cycles.

That the examiners are involved in the quality assurance cycle and that their recommendations are considered and acted upon where appropriate.

Formally minuted IP team review meetings and training sessions eg to share best practice, discuss marking strategies and future enhancements to the programmes be adopted.

Student engagement in quality assurance is enhanced eg each cohort of IP students elect a student representative, who has an opportunity to introduce themselves to all IP students and who can either attend the School of Law student experience committee meetings or submit ideas, questions etc to it in writing.

Recommendation 11 will be actioned by the IP Team between September 2020 and March 2021.

Recommendation 12

Admissions - written criteria re exercising discretion where a student does not have a STEM degree 2.2 or above be drafted to ensure consistency.

This will be addressed between now and September 2020 in consultation with the Admissions Office.

Annex B)i): PG Cert in Intellectual Property (trade mark) Supplemental Report

IPReg Assessors recommendation to IPReg Board re Brunel University London response to the IPReg Measure 3 (contained in the Accreditation of Examination Agencies Assessor Report Final Version 30 March 2020 “the Assessors Report”) 6 May 2020

Recommendation to the IPReg Board

The Assessors recommend that, subject to the recommendations and questions (set out below) being considered and actioned appropriately, Brunel University be accredited to deliver the trade mark attorney Foundation Level Qualification. This recommendation is based on the materials and documentation submitted to the IPReg by Brunel University in a letter dated 27 April 2020.

Please note that, as of 6 May 2020, the Assessors have not had sight of any new documentation in relation to Measure 1 and 12 recommendations⁸ in relation to the LLM IP and PGCert IP or Measure 2 in relation to the PGDiploma in IP (see the Assessors Report). The Assessors recommendation above, re the trade mark FLQ, is dependent on the IPReg Board being satisfied that those other measures and recommendations have also been considered and actioned appropriately by Brunel University.

Brunel University response to IPReg Measure 3

In a letter dated 27 April 2020 Brunel University explain how they intend to meet Measure 3 and attach related documents (including draft programme specifications LLM and PgCert, modular block outline for a new module Comparative and International Trade Mark Law, redrafted modular block outline Managing Intellectual Property, a Mapping document, draft study pack for Comparative and International Trade Mark Law and a draft assessment.

Please note that although the letter refers to a draft study pack for Managing Intellectual Property it was not included.

The Assessors Report 30 March 2020 stated:

Trade Mark Attorney FLQ

The current proposal to award the trade mark attorney FLQ, in addition to the patent attorney FLQ, to students who successfully complete the current four credit compulsory modules (60 credits) does not satisfy the IPReg requirements, as the maximum credits of trade mark law covered by the current course is 15 and the requirement is for 30 credits.

We are therefore, as things currently stand, unable to recommend accreditation. We recommend that the following measure be taken:

Measure 3

If the University wishes to offer the trade mark attorney FLQ a clear written explanation as to how either paragraph 5 or paragraph 6 of the IPReg Accreditation Standards in the IPReg Handbook are going to be met and what if any changes are proposed to the current PgCert IP need to be submitted to IPReg. In addition the following documents will need to be submitted to IPReg:

- Draft programme specification for trade mark qualification
- Draft programme learning outcomes for trade mark qualification (eg modular block outline)
- How Professional Ethics will be dealt with
- Evidence that proposed programme is at the required level

⁸ Please see Annex A.

- A mapping document specifying exactly where Schedule A and B requirements are met in each session of each module.
- Draft study pack for any new modules
- Modes of teaching provision
- Methods of assessment, assessment criteria and draft assessment examples
- Relationship with patent attorney FLQ

This measure to be considered, actioned and discussed with the IPReg by (date to be discussed with IPReg). In addition all documentation for prospective students must make it clear that any trade mark attorney FLQ is subject to being accredited by IPReg.

Assessors recommendations, comments and questions:

From reading the documentation supplied we understand that Brunel wish to offer both a:

- Two pathway model leading to the award of either patent attorney FLQ **or** a trade mark attorney FLQ by covering the requirements in both para 4 and 5 IPReg Accreditation Standards (draft Programme Specification PgCert IP Law) and
- A pathway through the LLM programme to a dual attorney FLQ (draft Programme Specification LLM IP Law) as per para 6 IPReg Accreditation Standards.

1. Two pathway model patent attorney FLQ/trade mark attorney FLQ

Students who embark on the PgCert IP study four compulsory core modules of 15 credits each. We have indicated below where the Assessors understand the IPReg required credits are covered (*in italics*):

Patent attorney FLQ (para 20 programme specification)

- Patent Law and Practice (*15 credits patents law*)
- Trade Marks and Allied Rights (*10 credits trade mark law*)
- Copyrights Design and Allied Rights (*10 credits design and copyright law*)
- Managing Intellectual Property (*10 credits fundamentals of ELS plus 5 credits patent law plus 1 credit professional ethics*)

Trade Mark Attorney FLQ (para 20 programme specification)

- Comparative and International Trade Mark Law (*15 credits trade mark law*)
- Trade Marks and Allied Rights (*15 credits trade mark law*)
- Copyrights Design and Allied Rights (*10 credits design and copyright law*)
- Managing Intellectual Property (*10 credits fundamentals of ELS plus 5 credits patent law plus 1 credit professional ethics*)

a) Please confirm that the Assessors understanding as stated above is correct.

b) Please note that we think that there is mistake at para 25 of the PgCert IP Programme Specification as it states that Patent Law and Practice is a compulsory module for the Trade Mark FLQ? Please confirm.

c) There seems to be an inconsistency between the two programme specifications (LLM and PgCert) as to when ie in which term each of the modules is taught. The LLM programme specification para 25 says that Patent Law is taught in term 1 and Comparative and International Trade Mark Law in

term 2 whereas the PgCert programme specification para 25 says that both modules are taught in the Autumn term. The Assessors were under the impression that the PGCert students are taught in the same classes as the LLM students. If the modules are taught in different terms how does a student attending the PgCert IP over two terms choose between studying Patent Law and Practice **or** Comparative and International Trade Mark Law. Please explain.

d) We also note that in para 27 (PgCert IP programme specification) although the level has been changed to level 7 the wording of the learning outcomes remain the same (please refer to the Assessors Report).

2. Dual patent attorney FLQ and trade mark attorney FLQ as part of LLM programme

We assume (although it is not clear from the LLM programme specification) that to be awarded this dual qualification a candidate would need to successfully study five compulsory core modules of 15 credits each (again we have indicated below where the Assessors understand the IPReg required credits are covered (*in italics*)):

- Patent Law and Practice (*15 credits patents law*)
- Trade Marks and Allied Rights (*15 credits trade mark law*)
- Copyrights Design and Allied Rights (*10 credits design and copyright law*)
- Managing Intellectual Property (*10 credits fundamentals of ELS plus 5 credits patent law plus 1 credit professional ethics*)
- Comparative and International Trade Mark Law (*15 credits trade mark law*)

a) Please confirm that above assumptions are correct. Please note that if the Assessors are correct then the above needs to be made clear in the LLM programme specification.

3. Trade mark modules

Mapping document

a). Thank you for the mapping document, we assume that the Brunel syllabus in the left hand column divided into 9 sessions (1 professional ethics and 8 trade mark sessions) reflect what is taught in both the 15 credit Trade Mark and Allied Rights module and 15 credit Comparative and International Trade Mark Law? Please confirm. We suggest that the mapping document identify where each of the 8 Trade Mark sessions are taught eg is Trade Mark I-IV taught in the Trade Mark and Allied Rights module?

Schedule A:

As we have mentioned above it not at present clear to the Assessors how the modules Trade Marks and Allied Rights and Comparative and International Trade Mark Law relate to one another.

b). Please confirm that it is not intended to change the structure or content of the module Trade Marks and Allied Rights (which is part of the current PgCert IP and, as such, forms part of the pathway intended to lead to the Patent Attorney FLQ). If that module were to be changed in any way to accommodate the trade mark pathway, then the Assessors would have to reconsider the question of proper coverage of Schedule A subject matter in the patent attorney FLQ.

c). Further, if, as seems likely, the module Trade Marks and Allied Rights is a precursor to a more detailed study of the trade mark subject matter of Schedule A in the module Comparative and International Trade Mark Law, then this should be made explicit in the Programme Specification so that trade mark students understand that, for progression purposes, they will need to start the course

in January rather than at the beginning of the Autumn term, so as to order the modules correctly. Please confirm.

Coursework (draft):

The Assessors have considered the coursework which forms the only mode of assessment in the new trade mark module. We appreciate that this has been prepared quickly. As an indicator of the standard required it is adequate and, in the Assessor's view, represents an appropriate level for students at this stage. However, the material reflects the speed with which it has been prepared and the Assessors wish to make it clear that they are not approving the coursework questions for use as they stand. In particular, it is noted that:

There is no indication whether the two questions, both compulsory, are equally weighted

The materials supplied are incomplete and have not been proofread – eg question 1 is missing the materials referred to as being enclosed with the letter and a crucial word is missing from the question itself between 'prepared' and 'class 5' (limit/ abandon/fight for ??)

The questions are drafted in such a way that it is not clear what is required by way of answer. For example, the model answer to question 1 covers a range of subject matter beyond actions needed to respond to the provisional refusal. Similarly, in question 2, without knowing any detail of 'the Examiner's failure to carry out a proper examination', it is difficult to know how a student can draft a meaningful Statement of Grounds.

In addition we had hoped to see a marking scheme please refer to Recommendation 10 in the Assessors Report.

4. New Managing Intellectual Property module

We are pleased to see that the "Main Aims" now includes professional ethics. We note that the "Main topics of study" has been altered to include not only patents but also trade marks and that a course work examining Fundamental of ELS has been added.

5. Other corrections required:

LLM Programme specification:

Para 5: missing word "Intellectual" before "Property Regulation Board".

We do not understand reference to "patent foundation examinations" this is outdated terminology please remove.

Para 14: remains unclear from this document what a student has to successfully complete to achieve a PgDip (please refer to the Assessors Report).

Para 25: the words "Candidates who wish to obtain an IPReg exemption..." is incorrect it should simply say "to obtain a patent attorney FLQ candidates should take the following modules as core modules... to obtain a trade mark attorney FLQ candidates should take the following modules as core modules... to obtain a dual patent attorney FLQ and trade mark attorney FLQ candidates should take the following modules as core modules..."

IPReg Assessors [REDACTED] and [REDACTED]
6 May 2020

B)ii) Brunel University Response

Brunel Accreditation Trade Mark Assessor Report – Professor Petkoff Response

Page 9 - LLM clarification: “A pathway through the LLM programme to dual attorney FLQ (draft Programme Specification LLM in IP Law as per para 6 IPReg Accreditation Standards” – the pathway provides options for dual qualification, as well as singular qualification as either patent or trade mark.

Page 9 - two pathway model: a) correct; b) provided incorrect version, correct programme specification being processed; c) typo in draft version, confirmation that patent modules will be delivered in Autumn term and the trade mark modules in the Spring term; d) accepts that learning outcomes require review, planned for actioning as part of Brunel university-wide audit of learning outcomes.

Page 10 - LLM: considers the Programme Specifications of the Postgraduate Certificate and LLM are sufficiently clear (a position accepted by the May Board); accepts that “exemption” language is no longer appropriate (a historical inheritance from the Joint Examination Board) and will arrange for removal.

Page 10 - Mapping document: welcome the feedback and will action as part of the implementation plan.

Page 10 - Schedule A: Trade Mark Foundation module for both patent and trade mark attorneys; Comparative and International Trade Mark Law module is advanced and necessarily sequential.

Page 10 - Trade Marks and Allied Rights: confirm no intention to change.

Page 10 - sequence of modules: entire patent syllabus in Autumn term so that Spring term covers both trade mark syllabus and copyright.

Page 11 - Coursework draft questions: welcome the feedback and confirm not intending to use that set of exam papers, provided as an indicator of standard of assessment; all examination papers subject to review by Scrutiny Panel and External Examiner.

Page 11 - LLM Programme Specification: typo will be rectified.

Page 11 - LLM/PG Diploma Programme Specification: considers the Programme Specification is clear (a position accepted by the May Board).

Page 11 - Programme Specification: as above, accepts that “exemption” language is no longer appropriate (a historical inheritance from the Joint Examination Board) and will arrange for removal.

Board Meeting 16 July 2020

Information paper: Complaints update

Agenda Item: 12

Author: Shelley Edwards, Head of Registration (shelley.edwards@ipreg.org.uk 020 7632 7175), Mark Barnett, Assurance Officer (mark.barnett@ipreg.org.uk 020 7632 7171)

Summary

1. This paper stands as an update on complaints received and processed by IPReg.

Risks and mitigations

Financial	None. Existing resources are dedicated to the oversight and administration of complaints received.
Legal	[REDACTED]
Reputational	In common with all regulatory bodies, we can expect that complainants who are disappointed with the outcome of their regulatory complaint may make a corporate complaint about IPReg's decision or processes. This reputational risk will be mitigated by the Corporate Complaint policy and procedure which is currently being developed. This will be published on the website and followed where applicable.
Resources	Whilst the overall number of complaints received about regulated persons is low (an average of around 7 complaints every year since 2010), the complaints that have been investigated and taken forward to CRC (and beyond) have been resource-intensive. The development and refinement of internal procedures, as well as the additional capacity to investigate and process cases in-house should assist. The need for external legal support should also be reduced due to increased internal capacity.

Recommendations

2. The Board is asked to note this paper.

Investigation Stages

Under Investigation

Information has been received which is being investigated under Rule 5 Disciplinary Procedure Rules (“DPR”) to determine whether it amounts to a Complaint. If it does not amount to a Complaint¹, the case will be closed. If it does amount to a Complaint, it moves to the Complaint Initiated stage.

Complaint Initiated

Information has been received which suggests a breach of IPReg’s regulatory arrangements under Rule 5.3 DPR. Further investigation and liaison with parties may be required at this stage, including obtaining brief and concise observations on the complaint from the respondent.

CRC

Case has been referred to or is being dealt with by the Complaints Review Committee under Rule 8 DPR. A case at this stage may be adjourned for further investigation, closed, dealt with summarily or referred to the JDP.

JDP

Case has been referred to or is being dealt with by the Joint Disciplinary Panel / Disciplinary Board. under Rule 9.10 DPR.

Appeal

The Disciplinary Board has made a decision following a disciplinary hearing, and this is under appeal or notice has been given that an appeal will be lodged under Rule 20 DPR.

Cases by numbers

Category	Number	Notes
Complaints received in last month (since last meeting)	1	
Total open cases	10	Under investigation = █ Complaint initiated = █ CRC stage = █ JDP stage = █ Appeal stage = █
Complaints closed in last month (since last meeting)	4	

¹ For example, because information provided does not support an allegation of a breach of any of IPReg’s regulatory arrangements, no evidence has been provided to support any allegations made, allegations have been made prematurely (e.g. the firm’s complaints procedure has not been exhausted), the matter is not within IPReg’s jurisdiction (more appropriate to be dealt with by police, LeO, other regulator or organisation) etc

Open cases

Case ref	Stage and Status
[REDACTED]	[REDACTED]

	[REDACTED]
[REDACTED]	[REDACTED]

Closed cases in last month

[REDACTED]	[REDACTED]

Recommendation

The Board is asked to note this information paper.