

The Patent Regulation Board and the Trade Mark Regulation Board**Minutes****Thursday 15th July 2021 at 12 noon****Attending:**

Rt Hon Lord Smith of Finsbury (Chair)
Justin Bukspan
Samantha Funnell
Steve Gregory
Alan Kershaw
Victor Olowe
Samantha Peters
Emma Reeve
Caroline Seddon

In attendance: Fran Gillon, Mark Barnett (items 12 & 13), Karen Duxbury, Emily Lyn, Victoria Swan, [REDACTED] (item 12)

- 1. Apologies** - apologies received from Nigel Robinson and Shelley Edwards.
- 2. Notification of any conflicts of interest** – none.
- 3. Welcome and appointment of new Board members**

3.1 The Board welcomed and appointed 3 new Board members. Justin Bukspan was appointed as a professional member of the Trade Mark Regulation Board; Victor Olowe and Samantha Peters were appointed as lay members of the Trade Mark Regulation Board and the Patent Regulation Board.

PART A – NON-CONFIDENTIAL ITEMS**4. Minutes of May 2021 meeting and matters arising**

4.1 Minutes agreed as a correct record.

4.2 Matters arising: the Chair advised that the 4 November Board meeting will need to be rescheduled.

5. Action Log

5.1 The Board noted the action log.

6. Education Working Group Update

6.1 CS presented the paper providing an update on the work of the Education Working Group:

- Accreditation Handbook changes: the updated Handbook has been issued; it includes an annual reporting requirement regarding permanent management and approval of online learning and assessment. The pandemic arrangements have upheld outcomes and standards;
- Historic JEB exemptions: a less straightforward item to progress than had been envisaged, with a number of follow-ups from the LSB, these have been responded to and we await the LSB decision;
- Queen Mary University London – quality issues: recent scrutiny of student support and programme administration which looks to be improving; issues identified by CITMA Student Surveys (with QMUL own student feedback systems) are still in need of improvement;
- European Qualifying Examinations: SF reported concerns raised at European Patent Institute Conference relating to a) candidates sitting at computers for long periods of time (exams can be 5-6 hours) and b) proposals to lose some of the examination matter; proposals of the EPI are to make the examinations modular, slightly less predictable and better assure on fitness to practise;
- Patent Examination Board: online examinations review positive and commented on as such. The Education Group met this morning with [REDACTED] (gave apologies),

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- 6.2 The Board discussed the need for patent attorney representation on the Education Working Group, given that Keith Howick has now left the Board; it was suggested that NR should be approached to join the group.

Action: CS/VS to approach NR for interest in joining Working Group

7. Higher Courts Advocacy Course Accreditation Application

- 7.1 VS presented the paper recommending accreditation of the Nottingham Law School application. The Higher Courts Advocacy Course being proposed had been endorsed by the independent specialist assessors, subject to 3 recommendations, relating to clarity on attendance requirements, review of delivery should the pandemic not allow face-to-face delivery, consideration to non-IP specific learning materials. Nottingham provided limited acceptance of the learning materials recommendation, putting forward a convincing case for most materials being IP-specific. It accepted fully the two remaining recommendations.
- 7.2 The Board accepted the recommendations and Nottingham's response to them, approving accreditation of the course subject to satisfactory assurance from the assessors that there is

coordination between different parts of the course (the assessors having not had sight of all learning materials).

Action: VS to contact assessors/Nottingham regarding accreditation and learning materials

8. Progress on review of regulatory arrangements

- 8.1 EL presented the slides setting out the current thinking on the regulatory arrangements review group and invited the Board to discuss the various topics. The timeframe remains ambitious but likely achievable. We will start engaging with stakeholders informally very soon to ensure maximum opportunities for consultation and discussion as well as to help inform our impact assessments.
- 8.2 The Board agreed that SF, SP and VO would join the regulatory arrangements review group. The Board agreed that SF and JB would join the data sub group, which will look at the data we will need to inform both the review and policy development.
- 8.4 The Board agreed that we should map the evidence that would be required to inform each policy issue. It was also agreed that concepts such as ‘resilient to change’ and ‘consumer protection’ might merit from unbundling so that related principles such as encouraging innovation and reducing regulation were captured.

Action: EL/AK to review principles

- 8.5 EL advised that the Legal Services Board (LSB) is likely to go beyond an hours-based approach in their pending consultation on continuing competence guidance which may include consideration being given to regular competence examinations (as suggested by the Consumer Panel Chair). In reviewing the slides setting out the key policies and direction of travel, the Board agreed that each policy proposal should be explicitly linked to the risk it seeks to address.

Action: EL to map key policy proposals with risk it seeks to address

9. Other activities (not covered elsewhere):

- 9.1 3 x CEOs 9 July meeting: FG reported that discussions had included the [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- 9.2 Regulatory Forum 3 June: the Chair reported that discussions included [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

Action: FG to send response to LSB

12. Compensation arrangements

[REDACTED] and MB joined the meeting.

12.1 FG introduced this item, reporting that the regulatory arrangements provide for compensation arrangements which would not be covered by PII due to fraudulent actions of a regulated person. For several years this has been provided through an annually renewed £30,000 insurance policy of Royal Sun Alliance (RSA) on which there has not been a claim. RSA advised us in May that they would not be offering renewal terms, providing extremely limited options in these circumstances.

12.2 [REDACTED] author of the actuarial report, advised that there are key reasons why RSA is not renewing the policy: its bespoke nature, the absence of RSA input into any decision on payment of a claim, lack of an IPReg risk model. The report concluded that compensation policies are not attractive to insurers.

12.3 [REDACTED]

12.4 [REDACTED]

12.5 RSA has provided a 60 day extension, [REDACTED]
[REDACTED] The Board agreed that a further extension should be requested from RSA, that work would start on identifying and differentiating risk, and that we would proceed to establish a fund.

12.6 [REDACTED]

Action: FG to request extension from RSA

Action: [REDACTED] FG and MB to develop risk profile

Action: [REDACTED] to provide one-page public facing version of the actuarial report

Action: FG to issue compensation fund consultation

13. Complaints Update

13.1 MB presented the complaints paper and related updates, which the Board noted.

13.2 [REDACTED]

MB left the meeting.

14. Risk Register

14.1 [REDACTED]

15. Governance

15.1 The Board noted the 30 June 2021 letter sent to the LSB confirming the lay majority of the IPReg Trade Mark Regulation Board and the Patent Regulation Board and its response on 8 July 2021.

15.2 AK, SF, and ER have reached the end of their first 3-year term appointment with all 3 wishing to be reappointed for a second term. Their reappointments were agreed by the Board.

15.3 The new Board members, JB, VO, and SP were agreed by the Board as IPReg Directors of IPReg Limited.

Action: Advise Companies House of appointments (KD)

16. Finances

KD joined the meeting.

16.1

Financial statements (IPReg Limited): [REDACTED]

[REDACTED] The Board agreed the financial statements.

Action: Chair to sign, and KD to submit, Financial Statements

16.2 Actual v Budget 6 me 30 June 2021: noted by the Board.

16.3

2022 budget revisions: [REDACTED]

[REDACTED]

- 17. **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.