

The Patent Regulation Board and the Trade Mark Regulation Board

Minutes

Thursday 20th May 2021 at 12 noon

Attending:

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

In attendance: Fran Gillon, Shelley Edwards, Emily Lyn (left at 2pm), Mark Barnett (PII Market and item 15 only), Karen Duxbury (item 8 only), Victoria Swan

Marsh insurance broker representatives (John Kunzler and Rachel Evans) for PII Market item only.

Professional Indemnity Insurance Market – update from Marsh

[REDACTED]

Marsh is comfortable that the wording of PAMIA's affirmative endorsement does not appear to reduce coverage.

[REDACTED]

Marsh representatives left the meeting.

Chair's Welcome and Acknowledgements

The Chair noted that it was the last Board meeting for RG as a member of the IPReg team and recorded the Board's thanks for her hard work and contribution to IPReg.

The Chair noted that it was the last Board meeting for SG, AC, KH and NW and recorded the Board's thanks to them all for their excellent contributions to IPReg.

MB left the meeting.

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

PART A – NON-CONFIDENTIAL ITEMS

3. Minutes of March 2021 meeting and matters arising

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

3.2 Matters arising – Covid working arrangements: FG reported that she had undertaken a risk assessment using the HSE template and a lone worker assessment and had shared both of these with the team. She was consulting team members individually about returning to the office. [REDACTED]

4. Action Log

4.1 The Board noted the action log. Updates were provided on two items:

Consumer bodies engagement: FG reported that this will be covered in the regulatory arrangements review.

ACTION: EL and ER to take forward engagement with consumer bodies

Mutual Recognition: [REDACTED]

[REDACTED] The Mutual Recognition Bill, to enable competent authorities to change powers as deemed appropriate, has had its second reading in the House of Lords.

5. Progress on Review of regulatory arrangements

5.1 EL presented a paper setting out a summary of the responses to the Call for Evidence, the initial policy discussions at the sub-group and the timetable for the Review. She stressed the importance of the Board reviewing progress regularly in order to decide whether the overall timetable would need to be adjusted. The Board agreed that in its judgment it would be appropriate for “pre-admission” aspects of its education and training work (with the possible exception of the Basic Litigation Skills Course) to continue to be progressed as an integral part of the Review but with its own timetable under the oversight of the Education working group. The Board also agreed that in its judgement it would be a targeted and proportionate approach if policy the Intellectual Property Litigation Certificate was included in the oversight of the Review sub-group.

5.2 The Board noted that there would be a series of workshops in June, followed by informal stakeholder engagement over the summer and a detailed consultation before end of calendar year. To provide transparency and predictability to stakeholders there will be an implementation timeframe of “no sooner than summer 2023”. The Board agreed that it would be appropriate, given its experience of the rule change process, to include 6 months for LSB consideration of the changes.

5.3 The Board agreed that in its judgement the approach set out in the paper was targeted and proportionate, in particular the need to review regularly the timetable in the light of stakeholder feedback and wider market issues.

Action: FG/EL to share the paper with LSB

6. Other activities (not covered elsewhere)

6.1 IP Inclusive annual meeting 23 March: FG, SE, SF and AK had attended; there was an interesting discussion on work over the past year and where to focus in year ahead, in particular increased independence of IP Inclusive from CIPA and CITMA.

6.2 MoJ Patent and Trade Mark Attorney International Priorities 26 March: FG reported this had been an opportunity for MoJ to outline its priorities; CIPA and CITMA had emphasised the importance to the professions of mutual recognition.

6.3 3 x CEOs: 31 March, 28 April: FG reported there had been discussions about: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

6.4 Law Tech UK Sandbox showcase 25 March: FG reported this had been a summary of Regulatory Response Unit projects.

6.5 CILEx Regulation 5 May: the Chair reported he and FG met Sam Younger, current Chair and Carilyn Burman, the CEO, [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

7. Diversity – next steps

7.1 Workshop feedback: Following consideration of the survey results the Board agreed that IPReg will:

- Appoint a Board member as its EDIB (equality, diversity, inclusion and belonging) ambassador once its newly recruited Board members have been announced;
- Continue to work closely with IP Inclusive and other stakeholders to improve the diversity of the profession. IP Inclusive publishes a significant amount of resources to help promote EDI in the workplace and the profession; IPReg's work with IP Inclusive includes:
 - o Funding IP Inclusive's annual operating costs;
 - o Recognising IP Inclusive training courses for the purposes of CPD;
- Continue to encourage applications from organisations who are actively working with under-represented groups to increase diversity in those students studying STEM subjects;
- Explore with senior managers and recruiters in our larger regulated firms whether there is an opportunity for money that they pay in the apprenticeship levy to be used in a more targeted way;
- Ensure that consideration of EDI matters are integrated into its review of regulatory arrangements to ensure that they do not present unnecessary barriers to increasing diversity. This will include working with an external expert on diversity issues;
- Encourage firms to consider all the data we have published and how it may help increase diversity in their workforce.

Action: implement the above diversity initiatives (FG)

7.2 Inclusive language: CS introduced the proposed Inclusive Language Policy. The Board agreed to adopt and publish the Inclusive Language Policy.

Action: adopt and publish Inclusive Language Policy

7.3 Career progression pipeline infographic: the Board noted the infographic developed by the Australian Academy of Science and agreed to re-circulate from time to time to remind ourselves of the challenges.

EL left the meeting.

8. IPReg Limited

KD joined the meeting.

8.1 Budgets 2021 and 2022:

[REDACTED]

8.2 [REDACTED]

[REDACTED] It was noted with concern that the LSB is proposing a 4.4% increase in its budget.

8.2 Re-tender for auditors: KD and NW presented their paper proposing a re-tendering exercise since the current auditors had been used for a significant period of time. The Board agreed to re-tender for auditors, including inviting the current auditors to respond to the tender.

Action: KD to re-tender for auditors

8.3 Governance: The Board agreed that, with new Board members due to be appointed, it would be appropriate to ensure that the Register of Interests was up to date. The Board further agreed that the Register of Interest would be published on the website.

Action: KH to update Register of Interests

KD left the meeting.

9. IPReg Performance Management Dataset

9.1 VS presented the Performance Management Dataset (PMD) for submission to the Legal Services Board. VS reported that the PMD indicated no areas of significant concern and indeed highlighted positive improvements in the complaints handling timeframes and good enquiry response times. The Board agreed the PMD for submission to the LSB and publication on the IPReg website

Action: VS to submit PMD to the LSB and publish on IPReg website

NW left the meeting.

10. Higher Courts Advocacy Certificate Accreditation Application – CPD Training UK: VS presented the paper setting out the independent specialist review of the application for accreditation. A comprehensive suite of outcomes mapping, benchmarking against the Higher Rights of Audience requirements of the SRA, a detailed application and sample learning materials had been considered by the specialist assessors who recommended accreditation and this was supported by the Education Working Group. The Board agreed accreditation of the CPD Training HCAC course for the standard five years. This is subject to IPReg advising CPD Training UK that this may change as a result of extenuating circumstances, such as significant concerns being raised, or other aggravating factors, or should the regulatory arrangements review determine changes are needed to the current litigation and advocacy regulatory arrangements.

Action: VS to inform CPD Training of successful accreditation and to put information on website

11. Education Group Update

11.1 CS reported that the next meeting of the Education Working Group is scheduled for the week beginning 24 May, to include review of the consultation responses from the qualification agencies in relation to the IPReg Accreditation Handbook update and the rule change application proposing introduction of a sunset clause to aged qualifications providing exemptions to elements of the attorney qualification pathway. VS explained that since the last Board meeting the LSB has advised that it wants the rule change application to take the form of a full rule change application under Schedule 4 of the Legal Services Act 2007 and the application has been updated significantly to reflect this.

PART B – CONFIDENTIAL ITEMS

12. Complaints Update

12.1 SE presented the complaints paper, [REDACTED]
[REDACTED]

12.2 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

12.3 [REDACTED]
[REDACTED]
[REDACTED]

Action: [REDACTED]

12.4 [REDACTED]

13. [REDACTED]

13.1 [REDACTED]
[REDACTED]
[REDACTED]

SE left the meeting.

14. SRA: Solicitors Qualifying Examination

14.1 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

14.2 [REDACTED]
[REDACTED]
[REDACTED]

MB joined the meeting.

15. Silent Cyber – Professional Indemnity Insurance

15.1 [REDACTED]

15.2 [REDACTED]

Action: [REDACTED]

Action: FG to update the LSB

MB left the meeting.

16. LSB issues

16.1 [REDACTED]

16.2 [REDACTED]

Action: FG to draft a response to the LSB performance assessment letter for the July Board

17. Red risks (FG)

17.1 [REDACTED]

18. 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.