

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

### Minutes

Thursday 11 January 2018 at 12 noon

Room 106, 16 High Holborn, WC1V 6BX (Orega)

#### Attending:

Steve Gregory (Chair)  
David Bream  
Alicia Chantrey  
Jonathan Clegg  
Keith Howick  
David Musker  
Nigel Robinson  
Caroline Seddon  
Nick Whitaker

**In attendance:** Fran Gillon, Shelley Edwards, Victoria Swan

1. **Apologies:** James Turner
2. **Notification of any conflicts of interest**
  - 2.1. None.
3. **Minutes: Minutes of October meeting and Actions Log**
  - 3.1 A minor change to the November minutes item "4.2.1 FG reported that there will continue to *be* regular meetings ...".
  - 3.2 The Board agreed the minutes subject to the amendment and the redactions.
4. **Action Log and matters arising not covered elsewhere**
  - 4.1 Action log approved. FG advised that she had copies of the deed of novation between CITMA, CIPA and IPReg that the October Board agreed should be signed and that they could be signed by any two Directors after the meeting.
5. **Chair and CEO activities (not covered elsewhere):**
  - 5a. Discussions with CIPA/CITMA (SG): the AR Forum has been suspended and work will be undertaken on identifying the most appropriate governance mechanism going forward. The LSB's decision on IGRs is relevant to this but in the meantime, FG has circulated to the CEOs of CIPA and CITMA a draft "Heads of Terms" for a new Delegation Agreement; this will be discussed when the CEOs next meet.

SG has been introduced to Julia Florence who will become CIPA President in January 2019.

- 5b. Board recruitment (FG): PARN is handling the recruitment of one lay member and two professional members, which closes 15<sup>th</sup> January. The response to the lay vacancy has been very positive, but has been disappointing for the professional positions. FG is discussing with PARN, CIPA and CITMA how to encourage applications from attorneys.

**Action: Discuss with PARN, CIPA and CITMA how to encourage applications from attorneys**

At CITMA and CIPA's request, SG had written asking formally for their views on filling the Chair's position from the current Board members. The decision may have an impact of the recruitment of the new lay member. If there is no agreement, the position will be advertised. The Board agreed to discuss the matter in more detail at its February meeting.

- 5c. Internal Governance Rules roundtable at the LSB on 29 November (SG):

SG & VS attended, as did other ARs and AARs, including CIPA and CITMA. A key issue that was raised was the lack of clarity about the oversight roles of the LSB and the AARs and the potential for the latter to duplicate the oversight role of the LSB.

The LSB's work on the IGRs, alongside the revised regulatory performance assessment, could provide clarity of what the LSB considers to be the AARs' oversight role. However, the Board agreed that discussions about revising the Delegation Agreement should be taken forward in parallel with the LSB's consultation process and noted that an LSB decision on IGRs might not be made until late 2018.

- 5d. SG, DM, NW and FG attended a "Board to Board" meeting with the LSB on 18 December. LSB attendees were: Helen Phillips - Interim Chair; Neil Buckley – CEO; Catharine Seddon, Michael Smyth and Jeremy Mayhew – Board members. [REDACTED]

- 5e. 3 x CEO meeting on 10 January (FG): the meeting has been rescheduled for 31 January. FG had replied to a letter from the CIPA President providing information about first tier complaints data in IPReg's 2016/17 annual report and its expenditure on external legal support and advice for disciplinary investigations.

## 6. Board governance (FG)

- 6.1 FG introduced the paper that set out:
- a. schedule of matters reserved to the Board;
  - b. scheme of delegations from the Board to the Executive;
  - c. risk register.

- 6.2 A non-linear scale has been used to assess risk as this allows more significance to be attributed to the impact of any particular risk. [REDACTED]

- 6.3 The Board requested the following amendments:

- the Reserves Policy and oversight of audit activity to be reserved to the Board;
- addition of a target risk (i.e. the remaining risk once the mitigating actions had been completed) rating column on the risk register;
- the Board should “make”, and/or “adopt”, IPReg’s overall strategy rather than “approve” it;
- there needed to be consideration about what matters should be reserved exclusively to the TRB and the PRB;
- there needed to be consideration of how to deal with urgent matters in between Board meetings – i.e. some delegation to the Chair and Head of Governance.

The Board also asked for the reinstatement of regular reports on the progress of investigations that were being conducted.

- 6.4 The Board agreed the recommendations of the paper and agreed to adopt (pending finalisation at the February Board meeting) the:

- a) schedule of matters reserved to the Board
- b) scheme of delegations from the Board to the Executive

The Board noted the risk register and agreed to review it on a quarterly basis

**Action: FG to amend the governance documents**

**Action: FG to include anonymised complaints summary in Board papers**

**Action: FG to bring the risk register to Board meetings on a quarterly basis**

## 7. Outline 2018 Programme Plan (FG/SE)

- 7.1 FG introduced the draft outline programme plan which sets out at a high level the work that is planned in 2018 and the quarter in which it is scheduled to be undertaken. It had been developed based on the Business Plan, and work on the risk register. FG explained that the programme plan was ambitious, given the small size of the IPReg team, but reflected the need to focus on IPReg’s core regulatory functions.
- 7.2 FG explained that the plan will be developed in more detail to ensure proper management of the work to be undertaken. Staff personal development plans will

be introduced and there will be opportunities for working in new areas of IPReg's work.

- 7.3 The Board discussed the programme plan and asked for the addition of work around new Board member induction to be added. The Board noted the risks attached to delivering the programme plan.

**Action: FG to include Board member induction in the programme plan**

**8. LSB's Regulatory Performance framework (VS/FG)**

- 8.1 VS introduced the paper which sets out a summary of the new "risk-based" regulatory performance assessment to be applied by the Legal Services Board. The LSB considers that the framework is a more proportionate and evidence-based approach which recognises the progress that regulators have made since the Legal Services Act was introduced.
- 8.2 The framework is similar to the LSB's previous one and is based on 5 performance standards: "regulatory approach, authorisation, supervision, enforcement and is well-led (governance and leadership)". There is increased emphasis upon leadership and governance across all the standards. A new grading scale is to be applied relating to whether the required standard has been met or not.
- 8.3 IPReg is scheduled to submit its first performance management dataset in March 2018, to inform the LSB's gap analysis and transitional arrangements.
- 8.4 The Board discussed the new regulatory performance framework and noted the pending performance management dataset requirement.
- 8.4 The most recent IPReg self-assessment against the regulatory standards was discussed. The performance against all but one of the previous regulatory standards had been rated as "satisfactory" with the 'supervision' standard rated slightly lower as, "undertaking improvement and work is well underway". The Board asked for the 'supervision' performance self-assessment be revisited to determine any items of particular concern that had not already been included in the work programme.

**Action: VS to revisit previous IPReg self-assessment 'supervision' standard**

**9. IPReg Enquiries 2017 (VS)**

- 9.1 VS introduced the paper which set out the insight, lessons to be learned and website information requirements that have been identified from the monitoring of themes of the regulatory enquiries made to the IPReg Info in-box in 2017.
- 9.2 Over 2500 emails were received, of which 215 were considered significant regulatory enquiries (rather than administrative ones). Of these 215 enquiries, over half (109) related to the qualification pathway, followed by the Code of Conduct (45) and Continuing Professional Development (32). The remaining enquiries were a mixture of themes.

9.3 No significant recommendations were made relating to the enquiries given that work is already underway or programmed in areas where the monitoring indicates that work may be needed.

9.4 The Board discussed the enquiries received and noted the main emerging themes, suggesting there may be scope for wider dissemination of this information.

**Action: Include reference to enquiries within IPReg's annual report and consider whether/how to share the lessons learned with other stakeholders**

## **10. Any other business**

10.1 SE advised that 4 responses had been received to the licence suspension consultation, including from CIPA and CITMA. FG and SE hope to meet with LSB in w/c 15 January prior to submitting a formal rule change application.

10.2 FG reported that the registration process had been started earlier than in previous years. As a result, we have invoiced for c£250,000 fees compared to c£19,000 on the same date last year. The programme plan has a 'lessons learned' review for the re-registration process scheduled for April.

## **11. Regulatory Statement**

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