

**IN THE MATTER OF THE INTELLECTUAL PROPERTY REGULATION BOARD DISCIPLINARY
BOARD**

THE INTELLECTUAL PROPERTY REGULATION BOARD

And

AARON RONALD WOOD

And

WOOD IP LIMITED

**(REGISTERED TRADE MARK ATTORNEY AND DIRECTOR AND FORMER MANAGER OF
WOOD IP LIMITED, A REGISTERED BODY UNTIL 1 SEPTEMBER 2019)**

MEMORANDUM OF A MEETING OF THE DISCIPLINARY BOARD

On

Friday 25 September 2020

At

Heard remotely via Zoom

Chairman

Fiona Tankard (Lay)

Members

Veronica Hows (Lay)

Henrietta Rooney (Professional)

Legal Advisor

Chris Hamlet

Background

1. Mr Aaron Wood ("AW") was admitted to the register of Trade Mark Attorneys on 4 May 2007. Wood IP Limited ("Wood IP") became a registered body on the

register of Trade Mark Attorneys on 14 October 2015. AW is the sole registered manager of Wood IP and sole attorney practising through Wood IP.

2. On 8 May 2019, IPReg Head of Registration wrote to AW to ask for evidence of valid Professional Indemnity Insurance (“PII”), after he failed to provide this during the renewal process. AW emailed PAMIA the same day asking whether they would no longer cover him, his policy having lapsed for non-payment on 30 June 2018. No response was sent to IPReg by AW at that time.
3. On 21 May 2019, IPReg sent a further letter to AW. AW responded the following day, stating he had not received the emailed letter of 8 May. He confirmed in subsequent correspondence that he had no PII but was working to secure it through another insurer.
4. Correspondence between AW and IPReg followed until 12 July 2019 when AW stated he was going to cease practising through Wood IP, which would become a service company through which he would provide IP services to Keystone Law LLP (“Keystone”), an SRA-regulated firm. He confirmed he was aware of the need to obtain run-off cover.
5. On 1 September 2019, AW began working through Keystone as a Consultant. He ceased from that point to provide trade mark services through Wood IP. On 3 October 2019, he provided an indemnification agreement between Wood IP and Keystone providing cover for AW’s work to Keystone clients.
6. On 9 October 2019, AW emailed IPReg setting out the efforts he had made (unsuccessfully) to obtain PII and then run-off cover for Wood IP. He confirmed he no longer wished Wood IP to be registered with IPReg.
7. 14 October 2019, Wood IP was suspended from the register of Trade Mark Attorneys.
8. In the course of subsequent investigation by IPReg, it emerged that during the period 1 July 2018 to 31 August 2019 Wood IP invoiced 78 clients to a total value of £182, 899.32, including VAT and disbursements. Some but not all were advised by AW that Wood IP had no PII at the time.

Allegations referred to the Complaints Review Committee

9. On 11 May 2020, the Complaints Review Committee (“CRC”) considered the following allegations:

Aaron Ronald Wood

It is alleged that:

- a) You are the Registered Manager of Wood IP Limited, a firm regulated by the Intellectual Property Regulation Board and entered on the Register of Trade Mark Attorneys;
- b) Between around 30 June 2018 and 1 September 2019, you failed to take out or maintain a policy of Professional Indemnity Insurance commensurate with the risks at large arising from the extent and size of Wood IP Limited;
- c) As a result of a) and b) above, you acted contrary to Rule 17 of the Rules of Conduct for Patent Attorneys, Trade Mark Attorneys and Other Regulated Persons.

Wood IP Limited

It is alleged that:

- a) Wood IP is a firm regulated by the Intellectual Property Regulation Board and entered on the Register of Trade Mark Attorneys;
- b) Between around 30 June 2018 and 1 September 2019, Wood IP failed to take out or maintain a policy of Professional Indemnity Insurance commensurate with the risks at large arising from the extent and size of Wood IP Limited;
- c) As a result of a) and b) above, Wood IP acted contrary to Rule 17 of the Rules of Conduct for Patent Attorneys, Trade Mark Attorneys and Other Regulated Persons.

Referral by the CRC to the Disciplinary Board

10. After consideration of the evidence presented to it, the CRC determined that there was a prima facie case, but that dealing with the complaint through the summary procedure would not be appropriate. The CRC therefore referred the matter to the Disciplinary Board "DB" for disposal in accordance with Rule 9.10.

Directions hearing

11. On 29 June 2020, the DB convened in accordance with Rule 12.2 for the purpose of issuing directions to the parties pursuant to the determination of the complaint.
12. During this hearing, the Respondents made full admissions to the allegations, and the DB found them proved on that basis.

Evidence provided to the DB

13. In accordance with directions issued on 29 June 2020, the parties produced a joint bundle of material containing, inter alia, the parties' written submissions on sanctions and costs, provided in lieu of their attendance.

Powers of the DB

14. The DB was reminded by the Legal Advisor that its determination of the appropriate sanction is not fettered by the decision of the CRC, or by any previous DB decisions. Whilst account may be taken of both, the decision is for its independent judgment.
15. The DB was advised that the principle of proportionality dictates that sanctions should be considered in ascending order of seriousness, starting with the least stringent available. The primary purpose of sanctions is to protect the public and uphold trust and confidence in the profession, as well as reaffirming standards of conduct across the profession. A balance should be struck between the need to act in the public interest and the interests of the Respondents. Account must be taken in this respect of the aggravating and mitigating features of the case to ensure the conduct is placed in its proper context and the outcome is a proportionate one.
16. The powers available to the DB are set out at Rule 16.1 of the Disciplinary Procedure Rules "DPR". In respect of Mr Wood, the sanctions range from a public notice, warning or reprimand, up to, inter alia, expulsion from the Institute. In respect of Wood IP the sanctions range from a public notice, warning or reprimand up to removal of the firm's entry from the register and/or a fine not exceeding £25million.
17. The DB was advised that it can impose a combination of sanctions in respect of both Respondents, where necessary and appropriate.

Discussion

18. The DB carefully considered the bundle of material produced and the written submissions from both parties.
19. It noted that whilst full admissions had been made in respect of the charges laid there was some disagreement between the parties on discrete, but important, points of the factual background.
20. The central issue in dispute was when Mr Wood became aware of Wood IP's lack of PII, such that it became a "conscious breach". IPReg submit that he was specifically notified by PAMIA on three occasions, the first being in July 2018, then September 2018 and again in January 2019. Mr Wood, on the other hand, maintains that he was unaware of the breach until May 2019, when IPReg brought it to his attention.
21. The DB was mindful that any important disputes of fact should be resolved by a formal finding made to the civil standard of proof. Taking into account the possibility that Mr Wood's personal circumstances in 2018 may have contributed to his 'taking his eye off the ball' the DB concluded that the evidence of his actual knowledge of the breach did not cross the relevant threshold prior to May 2019.

22. The DB took account of the following mitigating features, applicable to both Respondents:

- Mr Wood has admitted the allegations both in respect of himself and Wood IP
- Mr Wood has expressed remorse and apologised
- Mr Wood was, in June 2018, dealing with difficult personal circumstances arising from the illness and subsequent death of a close family member
- Mr Wood has an unblemished disciplinary record
- Mr Wood has conducted voluntary work for CITMA and IP Pro Bono

23. The DB took account of the following aggravating features, applicable to both Respondents:

- The period of time over which Wood IP lacked PII cover was lengthy - 14 months, from June 2018 to September 2018
- Wood IP continued to provide services over this period to 78 clients, invoicing a total of £182, 899.32
- Mr Wood was alerted to a lack of PII cover by PAMIA in June 2018, September 2018 and again in January 2019 but he failed to ensure cover was secured
- Mr Wood was directly aware, from at least May 2019, that he lacked PII, but failed to inform all clients of that fact
- The Respondents failed to secure PII cover on time for the preceding 2018 year, which ought to have alerted them to the need for improved administration and systems in respect of PII

Outcome

24. The DB determined that it was necessary to impose a sanction in this case, in respect of both Respondents.

25. The DB considered this to be a serious breach, aggravated by the Respondents continuing to operate over a lengthy period, and to benefit financially, when Mr Wood knew the firm lacked the necessary PII cover. Whilst there was no evidence of actual harm, the DB considered the risk of harm had been high and gave rise to an ongoing risk to clients who would not be covered during the run-off period.

26. The DB further considered that in view of the likely insurmountable, practical difficulties Mr Wood is likely to encounter in securing PII as a sole practitioner, the risk of future repetition was low. However, there was a need to impose a sanction in order to mark the gravity of the misconduct, restore public confidence in the profession and to uphold standards of conduct.

27. The DB concluded that the appropriate sanctions in this case were as follows. In respect of Mr Wood:

- Reprimand in the following terms:

“Between about 30 June 2018 and 1 September 2019, Mr Wood and Wood IP Ltd failed to take out and maintain a policy of Professional Indemnity Insurance with a participating insurer and/or failed to ensure they had in place adequate PII commensurate with the risks at large arising from the extent and size of their practice.

As a result, Mr Wood and Wood IP Ltd acted contrary to Rule 17 of the Rules of Conduct for Patent Attorneys, Trade Mark Attorneys and Other Regulated Persons”

- Removal from the register of Trade Mark Attorneys for a period of 1 month
- Fine in the sum of £2,500

28. In respect of Wood IP Ltd:

- A direction that Wood IP Ltd be removed permanently from the register of Trade Mark Attorneys

Costs

29. IPReg applied for costs against the Respondents and provided a costs schedule dated 11 August 2020. The Respondents resisted the application.

30. The DB’s power to award costs is set out at Rule 18 of the DPR. It allows for “such order as to costs as it thinks fit”. This can include the costs associated with the investigation and hearing and any wasted or unnecessary costs incurred through a party’s “unreasonable, unnecessary or disproportionate conduct, non compliance with time limits or otherwise.”.

31. The DB took account of both parties’ submissions on the issue of costs. It was mindful of the fact that the Respondents should ordinarily bear the costs of the proceedings where the charges brought had been proved, though the DB was not bound by that.

32. The DB acknowledged that Mr Wood had sought to dispose of this matter on a consensual basis without the need for a hearing, but that the DPR did not provide a clear mechanism to do so. The DB did not consider that the referral to it was, in that context, unreasonable, or that either party had acted unreasonably in the wider context of the proceedings such that wasted or unnecessary costs had been incurred.

33. Having said that, the DB concluded that credit should be given to the Respondents for the early admissions and the efforts made to dispose of the case without a hearing. It considered that costs of £5000, representing approximately half the costs sought by IPReg, represented an appropriate contribution to the expenses involved in bringing the complaint to a conclusion.
34. Accordingly, Mr Wood, jointly and severally with Wood IP Ltd, is ordered to pay £5000 towards the costs of these proceedings.