

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

### Minutes

#### IPReg Board Meeting

Thursday 23<sup>rd</sup> September 2010 12 noon

Outer Temple Chamber

#### Attending:

Rosalind Burford

Penny Nicholls

Bruce Alexander

Ian Buchan

Nicholas Fox

Philip Portwood

Danny Keenan

Steve Smith

Michael Heap

Ann Wright

#### 1. Apologies

Philip Harris

#### 2. Approval of July Minutes

The minutes were approved. AW reported that the proposed event with CIPA and ITMA which had been intended to take place immediately after the main board meeting had been postponed.

#### 3. CIPA/ITMA

- MH reported that Crispin Passmore from the LSB had attended the Liaison Meeting with CIPA and ITMA the previous day. Bruce Alexander had also attended with MH and AW.
- BA noted that the meeting had been very acrimonious; the Institutes being highly critical of (as they saw it) IPReg's lack of communication and transparency.
- Crispin Passmore had made it clear that in relation to the Governance Certificate, whilst the LSB would like a joint certificate if that were possible, if IPReg were not

in agreement, then IPReg was at liberty to issue its own certificate or decline to issue a certificate.

- Crispin Passmore had also made it clear that the Institutes had no right of approval of IPReg's budget but strongly recommended consultation. It was agreed that IPReg would issue (early in 2011 if not sooner) a timeline for the consultation including, but not exclusively with, the Institutes on the 2012 budget (working around the IPReg meetings cycle and not the Institutes').
- The Governance Committee had reviewed the amendments made by CIPA/ITMA to the Response originally drafted by MH and, subject to some further amendments, these had been approved – copy as issued to the Presidents of CIPA and ITMA **attached**. ***NB The signed version of this document is published on the LSB website.***

#### 4. **Report from Internal/External Governance Committee**

- The Governance Committee had had a separate meeting with Crispin Passmore who had recommended greater transparency and the Committee had therefore debated the extent to which minutes of meetings should be published on the website. The Committee proposed that all minutes be published with any confidential item removed (but the item identified). After debate the Board agreed that the minutes of the main board but not committees should be published. Given that each committee reports fully at the Board meeting this would enable all registrants to be aware of the complete ambit of the work being undertaken by the Board but also enable the committees to discuss issues freely before making their recommendations/report to the Board.
- Prior to the Liaison Meeting the Institutes had e mailed to confirm their acceptance of the 2011 budget. The 2011 practice fee application had been submitted to the LSB.
- The Committee would be reviewing the actions arising from the Governance Response. Nicholas Fox pointed out that in the Governance Certificate IPReg had committed to a gap of at least 12 months between any representational role on either CIPA or ITMA Council and any application for IPReg Board membership. It would be important to make this requirement clear in any advertisements.

## 5. Report from Conduct and Disciplinary Committee

- **New Disciplinary Rules**

Philip Portwood reported that the LSB had joined the committee meeting to discuss some issues that had arisen from the consultation on the draft disciplinary rules. The key issue being - **Who should be the complainant?**

The Committee had concluded that in most cases once a complaint had passed the initial sift panel then IPReg ought to run and resource the case. However the original complainant should be given the opportunity to elect to continue being the complainant, although if that election were made IPReg could insist that it be a co-complainant where cases were, for example, very complex or would have a wider impact on the profession.

The reason for this decision was that although there was a risk that the complainant might believe that the proceedings would not be independent this was outweighed by the need to ensure complex/important cases were properly run and the complainant's right to elect to continue mitigated this risk.

It was proposed that the complainant should be given the opportunity to discuss the election with a lay member of the Board so that, as far as reasonably possible, it would be an informed decision.

- **First Tier Complaints – LSB Regulations**

The Committee had reviewed the comments of the LSB on its draft proposed amendment to Rule 12 to refer to the Ombudsman and was expecting approval from the LSB.

IPReg had its own e mail contact list for entities and the new Rule (with background note and FAQs) would be emailed to the entities and the Institutes would be asked to e mail to all registrants and publish it in the journals.

- **Working with the Ombudsman – update on presentations etc.**

PP reported that he had given a presentation to the new employees at the Ombudsman.

- **Current Complaints**

It was agreed that going forward the Committee would consider complaints without the attorney being identified and only in general terms to give guidance to AW. It would however review findings.

## 6. Report from Education & Qualifications Committee

- Rosalind Burford reported that the Committee had held very useful soundings meetings with CIPA ITMA and the JEB and would be holding further meetings with “academics” and trainee/newly qualified attorneys.
- Steve Smith sought the approval of the Board to the draft “Rules for the Examination and Admission of Individuals to the Register of Patent and Trade Mark Attorneys 2010” which had been circulated to the Board; drawing the attention of the Board to the provision regarding applications for mutual recognition of professional qualifications which required a minor amendment. The Board authorised the Committee to make the necessary change and confirmed a 3 month consultation period; the persons to be consulted to include the Department of Education, the universities who currently provide courses and the LSB Diversity Forum.
- The minutes of the meeting of the Committee on 17 June 2010 and 28 July 2010 were confirmed by the Patent Regulation Board and the Trade Mark Regulation Board.

## 7. Chief Executive’s Report

- **Finance/budget/practice fees (management accounts attached)**

Income now matched the original projection

- **Registration and the registers: update on entity registration**

The Board thanked BA and Ian Buchan for their work in identifying entities which had not registered and as a result IPReg now had some 200 registered entities.

A list of the registered entities had been published on the website.

- **LSB/ABS/First Tier Complaint Handling**

CIPA and ITMA had set up an ABS task force

Andrea Brewster (CIPA Council member) had volunteered to arrange training courses on first tier complaint handling which CIPA and ITMA agreed to arrange in the IPReg response to the LSB consultation in February

- **Legal Ombudsman**

A representative of LeO would be invited to give a presentation to the Board early in 2011.

## 8. Communication with

- **Registrants**

Communication with individual registrant still was of concern. The website project would address this.

- **LSB**

(see AOB)

- **Legal Ombudsman**

(see above)

In addition to the above AW reported that she had had a second meeting with PAMIA (it having been agreed that IPReg and PAMIA would meet every three months or so) and the possibility of joint training sessions “How to avoid a claim” etc had been mooted. This would be followed up.

**Action: AW to look at joint training opportunities**

It was suggested that a link to the JEB website from the IPReg website would be helpful.

**Action: AW to ensure a link is made to the JEB website**

## 9. Any other Business

Crispin Passmore joined the meeting for an informal discussion.

## 10. Confirmation that all decisions made by the Board are on behalf of both the Patent Regulation Board and the Trade Mark Regulation Board.

## 11. Date of next meeting: Currently scheduled for December - November meeting?

**The meeting would be at 2pm on 11<sup>th</sup> November and would review the current working arrangements for the Board and its committees in the light of the Governance Response and one year’s operation. The Governance Committee would meet ahead and produce an initial paper for debate.**