



JUDICIARY OF
ENGLAND AND WALES

THE RIGHT HONOURABLE THE LORD JUDGE

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27 September 2013

Dear *Mr Greening,*

Application from the Chartered Institute of Patent Attorneys and the Institute of Trade Mark Attorneys for a recommendation for designation as a licensing authority

Thank you for your letter of 31 July 2013 in which you request my views on the Chartered Institute of Patent Attorneys' and the Institute of Trade Mark Attorneys' designation application. Further to schedule 4, paragraphs 5(1) & (2) of the Legal Services Act 2007, the Legal Services Board must obtain the advice of the Lord Chief Justice before determining the application.

In giving this advice, I have consulted the judges of the Chancery Division and Sir John Thomas, my successor as Lord Chief Justice.

I advise against the Legal Services Board granting this application as presently submitted. In addition to my overarching concern about the effect of competition on standards, with which the Legal Services Board is familiar, I am concerned by two specific aspects of the application which I detail below.

I note the various points raised by the Consumer Panel in respect of the submitted application, and am particularly concerned by the point made in relation to the lack of detail contained in Rule 16 of the Code of Conduct relating to continuing professional development and in point 6 of IPReg's Education Plan (Annex 9). The importance of maintaining high standards in the practice of patents law cannot be

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understated, especially given the UK's current excellent reputation in Europe and internationally in respect of IP law generally, making it an attractive jurisdiction for users from around the world to bring their IP disputes to. It is therefore crucial for IPReg to put together a detailed programme of continuing education, in line with those that exist elsewhere in the profession, in order that the UK's reputation as a destination for IP litigation not be jeopardised.

In addition, IPReg's proposed Rules of Conduct define those eligible for registration both positively (see rule 4.1 and Annex A) and negatively (see rule 3.1). I have no comment on the positive criteria in Annex A. The negative criteria are less satisfactory. The purpose of the negative criteria is to exclude alternative business structures that engage in certain areas of non-IP work, in addition to IP work. I understand that the list of excluded areas is to exclude higher risk areas of work. The list of excluded areas is not as comprehensive as it should be. The most obvious categories of work missing from this list are personal injury work (including medical negligence), and administrative law other than relating to IP rights.

This application should not be granted until these deficiencies are remedied, at which point my successor will review my advice.

Yours sincerely,

John Judge