

THE CHARTERED INSTITUTE OF PATENT ATTORNEYS
LSB CONSULTATION PAPER ON THE REGULATORY REGIME FOR
ALTERNATIVE BUSINESS STRUCTURES

1. CIPA has no specific views to put forward in response to the Discussion Paper. However, we look forward to the publication of the formal Consultation Document and will respond in full to that consultation.
2. We do, however, have a comment in relation to paragraph 5.15 of the discussion paper, where there appears to be a misunderstanding of the true position relating to patent and trade mark attorneys.

It must be realised that there is no restriction on who may provide patent and trade mark attorney services, but the use of the titles “Patent Attorney” and “Registered Trade Mark Attorney” are restricted to those individuals who are entered on the Register of Patent Agents or the Register of Trade Mark agents respectively. The Copyright Designs & Patents Act 1988 and the Trade Marks Act 1994 also make provision that the titles may be used by entities in which all of the partners or directors are patent or trade mark attorneys respectively, or by entities which satisfy any other statutory rules which may be made.

The only rules which have been made are the SI 1994 No. 362 “The Patent Agents (Mixed Partnerships and Bodies Corporate) Rules 1994” and SI 1994 No. 363 “The Registered Trade Mark Agents (Mixed Partnerships and Bodies Corporate) Rules 1994”. These rules permit the use of the titles by those entities in which all of the partners or directors are on one or other of the Registers and at least 25% of the partners or directors are on the relevant register.

3. A further point to make is that there is no restriction on practicing in the field and some firms already practice in structures which will make them ABS under the regime in the LSA. One firm is listed on the alternative investment market and others have owners or managers who are not patent or trade mark attorneys. These firms practice legally offering patent and trade mark attorney services, but not using the titles. We have not found there to be any risks to consumers associated with such entities.

7th August, 2009