



Legal Services Board – Decision Notice issued under Part 1 of Schedule 10 to the Legal Services Act 2007

The Legal Services Board (“LSB”) has decided to make a recommendation to the Lord Chancellor that an order be made designating the Chartered Institute of Patent Attorneys (CIPA) and the Institute of Trade Mark Attorneys (ITMA) as licensing authorities for the following existing reserved legal activities undertaken by trade mark and patent attorneys. The rights sought in the application do not extend beyond these current rights:

- The exercise of a right of audience
- The conduct of litigation
- Reserved instrument activities
- The administration of oaths.

This notice sets out the basis for the LSB’s decision.

Authority for the decision

1. **Annex 1** sets out the authority under which the LSB has made its decision.

Background and scope of application

2. The Intellectual Property Regulation Board (**IPReg**) made an application on behalf of CIPA and ITMA under the Legal Services Act 2007 (“**the Act**”), for the LSB to recommend to the Lord Chancellor that an order be made designating ITMA and CIPA as licensing authorities for their existing reserved legal activities.
3. The regulatory functions of CIPA and ITMA are delegated to the Patent Regulation Board (**PRB**) and Trade Mark Regulation Board (**TMRB**) respectively. These have worked together as IPReg, to whom CIPA and ITMA have delegated their authorisation and regulatory functions since January 2010. The effect of the application therefore, would be to allow IPReg to authorise and regulate entities as alternative business structures (**ABS**)¹ on behalf of CIPA and ITMA.

¹ An Alternative Business Structure is a “licensable body” as defined in section 72 of the Act.

4. Under delegation from CIPA and ITMA, IPReg already undertakes frontline approved regulator authorisation and regulatory functions, including authorising and regulating some firms that have a similar structure to ABS. Trade mark and patent attorneys have not been prevented from having external management and ownership (although such ownership is limited to 25 per cent of the firm). IPReg has a number of firms that are therefore licensable bodies and IPReg will be able to license such firms under its new authorisation procedures in preparation for the end of the transitional period, as set out in paragraph 3 of Schedule 5, to the Act. The transitional period allows firms to carry on reserved legal activities without having to be authorised by an approved regulator or licensing authority.
5. The application does not seek to regulate or to go beyond IPReg's current organisational expertise as a regulator of trade mark and patent attorneys. IPReg intends to build on its existing authorisation and regulatory capability.

Assessment of the application

6. The LSB undertook an assessment of the application against the criteria for designation as a licensing authority as set out in its Rules for Licensing Authority Designation Applications (LSB Rules)², which have been made for the purposes of paragraph 11 of Schedule 10 to the Act. The table at **Annex 2** summarises the LSB's assessment in respect of the key criteria for designation as a licensing authority. The main conclusions of the LSB's assessment are set out below.
7. IPReg has the required licensing rules, which are contained in its *Registered Bodies Regulations* and the *General Conditions of the (Specimen) Registration Certificate* (both attached to this notice at **Annex 3**). Taken together with the relevant rules contained within IPReg's regulatory arrangements, the LSB is satisfied that IPReg's licensing rules comply with the requirements under the Act and with the LSB Rules.
8. IPReg will use the General Regulatory Chamber (**GRC**) of the First Tier Tribunal to hear appeals against decisions it makes when acting as a licensing authority. An order under section 80³ of the Act will be made to establish the GRC as the appellate body.
9. IPReg has appropriate internal governance arrangements. CIPA/ITMA/IPReg has completed four dual self certificates on compliance with the Internal Governance Rules⁴ and no issues were raised with the last certificate submitted to the LSB in July 2013.

² The LSB rules are published on the LSB website at:

http://www.legalservicesboard.org.uk/what_we_do/regulation/pdf/designating_la_rules_v2_june_2011_final.pdf

³ Section 80 of Part 4 to the Act refers to Functions of appellate bodies.

⁴ Internal Governance Rules are published on the LSB website at:

http://www.legalservicesboard.org.uk/Projects/pdf/internal_governance_rules%202009_final_km.pdf

10. The LSB is satisfied that IPReg is competent and has sufficient resources in place. It has already demonstrated its capability as an approved regulator and has researched and planned for additional resources to fulfil its role as a licensing authority.
11. The LSB is satisfied that IPReg, in its approach to the drafting of the licensing rules, has acted compatibly with section 28 of the Act in respect of the regulatory objectives and Better Regulation Principles. With regard to the regulatory objectives, there was a particular focus in the application on improving access to justice through the facilitation of new forms of business and protecting and promoting the interests of consumers through the principles contained in its Rules of Conduct. With regard to the Better Regulation Principles, IPReg has a framework of arrangements that focuses on risk but is not overly detailed.
12. IPReg included a policy statement in its application, in accordance with section 82 of the Act, that set out how it intended to exercise its authority as a licensing authority in accordance with the requirements in section 28 of the Act (to act in a way which is compatible with the regulatory objectives, for example).
13. During the assessment process the LSB also identified the following specific substantive matters.

Scope of legal activity

14. IPReg made clear that its authorisation and supervision regime will be limited to firms whose primary business is intellectual property services. However, during the course of the LSB's analysis, it was identified that the scope of activities IPReg would not regulate was not as comprehensive as it might be. For example, personal injury did not appear in its list of excluded activities. The Lord Chief Justice in his advice as a mandatory consultee also identified this as an issue. While it is the case that personal injury is not an activity an intellectual property lawyer would normally undertake, the LSB's view was that since other activities had been specifically excluded, that for the avoidance of doubt, personal injury should also be on the excluded list.
15. Having considered the views of the LSB and the Lord Chief Justice, IPReg decided to amend its regulations to include a longer list of excluded activities for which it will not authorise a licensable body, adding personal injury and "administrative law other than that relating to intellectual property rights". This change has reassured the LSB that the scope of activities being sought in a licensing authority capacity is consistent with IPReg's current regulatory functions.

Approach to risk

16. IPReg's regulatory standards self-assessment in 2012 gave an account of the work it had done on risk and its strategy. It has established and developed a risk approach largely based on the findings of an extensive questionnaire to all

registered entities in order to ascertain risk issues. A further consideration in relation to IPReg’s approach to risk was that firms registered with it generally do not hold client money, and IPReg did not consider that this would change for ABS firms undertaking intellectual property work.

17. With the evidence gathered from the questionnaire (and by identifying client/consumer risk associated with each client type), IPReg developed a risk based regime and risk assessment tool based on three overarching risk categories: business model risk; governance and operational risk; and competence risk. The LSB is reassured that this risk model will be reviewed by IPReg on an annual basis so that it can respond quickly to emerging risks and problems.
18. Furthermore, the LSB in its overall assessment of IPReg’s work on risk (published in December 2012 in the Developing Regulatory Standards Report on the small regulators and which included IPReg’s self assessment⁵) was that “IPReg is taking appropriate steps to build its evidence base on risk. It will have to ensure that such evidence is put to appropriate use and is able to identify those providers that pose a higher risk to consumers”. Nothing was identified in the designation assessment which led the LSB to come to a different conclusion.

Advice received on the application

19. Under paragraph 3(2) of Schedule 10 to the Act, the LSB is required to seek advice from the Office of Fair Trading (**OFT**), the Legal Services Consumer Panel (**the Panel**) and the Lord Chief Justice (**LCJ**).
20. The following key points emerged from the mandatory consultee advice.
21. The OFT did not raise any objections to the application.
22. While the Panel did not have any major policy concerns with the application, it did make a number of more in-depth points. In particular, the Panel expressed concerns about the lack of detail in IPReg’s rules on Continuing Professional Development (**CPD**). Having considered the Panel’s view on this, the LCJ also chose to comment and proposed that IPReg put together a detailed programme of continuing education in line with those that exist elsewhere in the profession.
23. IPReg explained in its response that it had, in fact, detailed CPD regulations, guidance and procedures but did not include these in its application, since it did not consider them to be directly relevant to an application to become a licensing authority. Following the raising of the issue, IPReg provided its detailed CPD Rules and the LSB is satisfied that IPReg has adequate CPD arrangements in place and is also content with IPReg’s overall approach to CPD in the context of its licensing authority application.

⁵ The LSB’s report is published on the LSB’s website at:
http://www.legalservicesboard.org.uk/Projects/pdf/regulatory_standards_assessment_of_five_of_seven_regulators.pdf

24. The Panel noted that Rule 20 of IPReg’s Rules of Conduct, referred to cooperation with the ITMA and CIPA regulation boards, but advised that this should be expanded to include cooperation with the Legal Ombudsman, even though it was acknowledged by the Panel that only a small number of attorney cases reach the Legal Ombudsman. The LSB also concluded in its assessment of the application that IPReg’s Rules of Conduct were not as explicit as they could be in order to satisfy section 83(5)(g) of the Act, in relation to section 145 of the Act⁶.
25. Section 145 requires that provision must be made by approved regulators, and in licensing rules, requiring each relevant authorised person to give ombudsmen all such assistance requested by them. Following the LSB raising this issue with IPReg, IPReg agreed to amend Rule 12 (Complaints Handling) of its Rules of Conduct so that the rule explicitly places a requirement on those it regulates to provide assistance to ombudsmen. This ensures that IPReg is compliant with section 145 of the Act as required by the Act’s section 83(5)(g).

Rules that are approved with effect from the date of this decision notice

26. The rules approved are the *Registered Bodies Regulations* and *General Conditions of the (Specimen) Registration Certificate* which both include the licensing rules to which a licensing body must adhere. Both documents are attached to this notice at **Annex 3**.

Decision

27. The LSB Rules giving effect to paragraphs 11(2) and 11(3) of Schedule 10 set out the matters on which the Board must be satisfied when granting an application for designation as a licensing authority.
28. The Board has considered the application and satisfied itself that the issues raised have been satisfactorily addressed. It is satisfied that the criteria for granting a licensing authority application have been met.
29. Therefore, the Board decided to:
- Grant the application in accordance with paragraph 12 (1) of Schedule 10;
 - Recommend to the Lord Chancellor that ITMA/CIPA be designated as licensing authorities for:
 - the exercise of a right of audience;
 - the conduct of litigation;
 - reserved instrument activities; and
 - the administration of oaths.
 - Include in the recommendation to the Lord Chancellor, the recommendation that the licensing rules be approved for use by IPReg when the Lord Chancellor exercises his authority under paragraph 16(1) of Schedule 10 to the Act.

⁶ That licensing rules of a licensing authority must contain the provision required by sections 112 and 145 of the Act (requirements in relation to handling of complaints).

Chronology

- The application was formally made by IPReg to the LSB on 21 May 2013.
- The LSB confirmed receipt of the application on 21 May 2013.
- The decision period started formally on 21 May 2013 and ends on 20 May 2014.
- The application was published on the LSB website on 22 May 2013.
- The advice from mandatory consultees and IPReg's representations were published on the LSB website on 4 November 2013.
- The decision notice is being published on the LSB website on 9 December 2013.

This document constitutes the decision notice which is being provided to the applicants under paragraph 12(3) of Schedule 10 and is being published under paragraph 12(5) of Schedule 10 to the Act.

**The Legal Services Board
6 December 2013**

Authority for the decision

Applications for designation as a licensing authority

1. Paragraph 1(2) of Schedule 10 to the Legal Services Act 2007 (“the Act”) enables a body to make an application requesting that the LSB recommends that an order be made by the Lord Chancellor to designate that body as a licensing authority in respect of identified reserved legal activities. Paragraph 1(3) of Schedule 10 provides that a body may only make such an application if it is an existing approved regulator in relation to the activity or it has made an application under Part 2 of Schedule 4 (designation of approved regulators) for the Board to recommend that an order be made by the Lord Chancellor designating the body as an approved regulator in relation to the activity⁷.
2. Part 1 of Schedule 10 to the Act also documents the processes, participants and criteria that will be applied to any such application that is made. These provisions enable the LSB to make rules at paragraphs 1(4) specifying the form and manner of the application and 1(5) for the amount of the prescribed (application) fee. In accordance with paragraph 2(2), the LSB must make rules about the procedures and criteria that it will apply when determining whether to refuse to consider or to continue its consideration of an application. Additionally, in accordance with paragraph 9(3), the LSB must make rules governing the making of oral and written representations.
3. Paragraph 11(1) of Schedule 10 to the Act, also requires the LSB to make rules about how it will determine if it should recommend to the Lord Chancellor that an application for designation by a body to become a licensing authority in relation to identified reserved legal activities should be made. These Rules for Licensing Authority Designation Applications came into effect on 1 January 2010 (“LA Designation Rules”).
4. The LSB may only grant an application in relation to a particular reserved legal activity if it is satisfied in relation to the requirements under its Rules giving effect to paragraphs 11(2)⁸ and 11(3)⁹ of Schedule 10. The LA Designation Rules provide the

⁷ The term “approved regulator” is defined in section 20 of the Act and a list of the Approved Regulators and the reserved legal activities for which they are approved is contained in Schedule 4 Part 1 of the Act. The term “reserved legal activities” is defined at Section 12 of the act and a list of the reserved legal activities and a definition of what is comprised within each of them is contained in Schedule 2 of the Act. Both Schedules will be amended from time to time in accordance with activities conducted in accordance with provisions of the Act.

⁸ Paragraphs 11(2)(a) to (d) provide that the LSB may only grant an application if satisfied that the applicant’s proposed licensing rules in relation to the activity comply with the requirements of section 83; that if an order to be made under paragraph 15 designating the body in relation to the activity there would be a body with power to hear and determine appeals; the applicant would have appropriate internal governance arrangements in place at

mechanism through which the LSB carries out its assessment against these requirements and the LSB has therefore satisfied itself of compliance with the requirements of paragraphs 11(2) and 11(3) by an assessment of the application and proposed regulatory arrangements against the LA Designation Rules.

5. Paragraph 16(1) provides that where an order is made by the Lord Chancellor under Paragraph 15 of Schedule 10, the applicant's proposed licensing rules are at the same time treated as having been approved by the Board.

the time the order takes effect; and the applicant would be competent, and have sufficient resources to perform the role of licensing authority in relation to the activity at the time the order takes effect.

⁹ Paragraphs 11(3)(a) and (b) of Schedule 4 provides that the LSB must in particular be satisfied that the exercise of the applicant's regulatory functions would not be prejudiced by any of its representative functions and that decisions relating to the exercise of regulatory functions would, so far as reasonably practicable, be taken independently from decisions relating to the exercise of representative functions.

Annex 2

Summary of LSB Assessment of Application against criteria in the Legal Services Act 2007 (the “Act”)

Criteria for designation as a licensing authority (“LA”)	Summary of the LSB’s assessment	MET or NOT MET by the applicant
<p>Licensing Rules comply with s.83 of the Act. When considering the application the Board will consider how consistent an applicant’s proposed licensing rules are with the LSB’s guidance on licensing rules</p>	<p>We are satisfied that IPReg has drafted appropriate rules in its Registered Bodies Regulations in relation to licensable bodies. We consider that these, together with its Rules of Conduct for Patents Attorneys, Trade Mark Attorneys and Other Regulated Persons and related existing regulations, such as the Patent Regulation Board and Trade Mark Regulation Board Disciplinary Procedure Rules, satisfy all the licensing rules requirements in the Act and the LSB Rules.</p>	<p>MET</p>
<p>An appeals body in place to hear and determine appeals against decisions of the applicant</p>	<p>We are satisfied there will be an appeals process in place.</p> <p>IPReg will use the General Regulatory Chamber (GRC) of the First Tier Tribunal to hear appeals against decisions it makes when acting as a licensing authority. An order under section 80 of the Act will be needed to establish the GRC as the appellate body.</p>	<p>MET</p>
<p>Appropriate internal governance arrangements at point of designation; regulatory functions will not be prejudiced by its representative functions; as far as reasonably practical, regulatory decisions will be taken independently of representative ones</p>	<p>CIPA/ITMA/IPReg have completed four dual self certificates on compliance with the Internal Governance Rules and no issues were raised on the last certificate, submitted in July 2013. The LSB has not identified any issues that would lead us to conclude that they would not continue to comply with having appropriate internal governance arrangements.</p>	<p>MET</p>
<p>Applicant competent, has sufficient resources to perform the role of LA in relation to probate</p>	<p>The LSB is satisfied that the approved regulators, through IPReg’s application, are competent and have sufficient resources in place. IPReg has already demonstrated experience and competence regulating the reserved legal activities of patent and trade mark attorneys, including experience of</p>	<p>MET</p>

Criteria for designation as a licensing authority (“LA”)	Summary of the LSB’s assessment	MET or NOT MET by the applicant
	<p>authorising firms. Moreover there will be no change in the type of firms which IPReg will authorise and regulate.</p> <p>We are also satisfied that IPReg has planned and will introduce increased but proportionate resource provision (both permanent staff and access to external resource) by estimating demand through previous experience, research and information such as annual practising fee returns, to enable it to assess size and number of firms likely to apply for authorisation and require supervision.</p>	
<p>Approach to licensing rules are consistent with requirements in s.28 of the Act (Regulatory Objectives and Better Regulation Principles)</p>	<p>Satisfied that IPReg has framed the application with regard to the Regulatory Objectives and Better Regulation Principles (BRPs). The application states that as a licensing authority, IPReg will seek to:</p> <p>Improve access to justice through the facilitation of new forms of business, protecting and promoting the interest of consumers through its principles-based Code of Conduct, with its focus on treatment of clients and promoting competition in the provision of services by building in consideration of competition and competition law into its authorisation process.</p> <p>In terms of the BRP, we are satisfied that IPReg has a set of regulatory arrangements that address risk. The rules are not overly detailed but broadly provide a clear regulatory framework for practitioners regulated by IPReg.</p>	<p>MET</p>
<p>In accordance with s.82 of the Act, an applicant must prepare and issue a policy statement as to how, in exercising functions under Part 5 of the Act, it will comply with s.28 of the Act</p>	<p>The Executive Summary of the application sets out a statement of policy on how IPReg intends to exercise its authority as a LA in accordance with the requirements set out in section 28 of the Act. The statement is summarised in the assessment above, and is aimed at demonstrating how IPReg’s proposed regulatory arrangements will support the regulatory objectives and professional principles in section 1 of the Act.</p>	<p>MET</p>

Annex 3

IPReg Registered Bodies Regulations 201*

(Regulations of the Patent Regulation Board of the Chartered Institute of Patent Attorneys and the Trade Mark Regulation Board of the Institute of Trade Mark Attorneys (working jointly as the Intellectual Property Regulation Board) regarding the Registration of partnerships and bodies corporate)

The Patent Regulation Board of the Chartered Institute of Patent Attorneys and the Trade Mark Regulation Board of the Institute of Trade Mark Attorneys working jointly as the Intellectual Property Regulation Board (IPReg) now make the following provisions under:

- (i) section 275A of the Copyright, Designs and Patents Act 1988;
- (ii) section 83A of the Trade Marks Act 1994; and
- (iii) Part 5 and Schedule 11 of the Legal Services Act 2007.

These Regulations make provision as to:

- *the procedures for, and the circumstances in which, bodies may be registered, i.e., entered into the Patent Attorney Register and/or the Trade Mark Attorney Register, and where they are alternative business structures, licensed under the Legal Services Act 2007;*
- *the duration of registration and the circumstances in which registration will expire or may be revoked or suspended;*
- *the circumstances in which IPReg will need to approve persons to be managers or owners of a body registered by it, and the procedure for the grant of such approvals as well as the circumstances in which such approvals may be withdrawn;*
- *the procedure for IPReg’s approval of individuals to fill the role of Head of Legal Practice (“HoLP”) or Head of Finance and Administration (“HoFA”) of a Registered Body and for the withdrawal of such approvals in certain circumstances;*
- *the form and manner of applications relating to the Registration of a body, the approval of managers, owners, HoLP and HoFA, and other rules applying to registered bodies, their owners, managers and employees;*
- *the general terms and conditions subject to which every registration is granted and the circumstances in which a body’s registration may be made subject to further conditions;*
- *appeals relating to the registration of a body, conditions on registration or approvals; and*
- *the names and designations to be used by registered bodies and the information to be published on IPReg’s register.*

PART 1 – GENERAL PROVISIONS

Regulation 1 – Interpretation

In these regulations:

“ABS” means a licensable body as defined in section 72 of the 2007 Act;

“Authorised Person(s)” means a person within section 111(2) of the 2007 Act and “Non-Authorised Person(s)” and “Authorised” should be construed accordingly;

“the Commencement Date” means [_____] [201*];

“HoFA” means a Head of Finance and Administration within the meaning of Paragraph 13(2) of Schedule 11 to the 2007 Act;

“HoLP” means a Head of Legal Practice within the meaning of Paragraph 11(2) of Schedule 11 to the 2007 Act;

“IPReg” means the Patent Regulation Board of the Chartered Institute of Patent Attorneys and the Trade Mark Regulation Board of the Institute of Trade Mark Attorneys working jointly as the Intellectual Property Regulation Board;

“Manager” in relation to a body has the same meaning as in section 207 of the 2007 Act;

“Micro, small and medium-sized enterprises” has the same meaning as in Article 2 of the Annex to Commission Recommendation 2003/361/EC;

“Owner” means a person who has a material interest in a body, phrases “person” and “material interest” having the same meaning as in Schedule 13 of the 2007 Act, save that, in relation to a partnership, a person has a material interest in the partnership if he is a partner;

“Patent Attorney Register” in respect of Registered persons other than ABS, means the Register kept under section 275 of the Copyright Designs and Patents Act 1988 as amended and in respect of ABS, is part of IPReg’s Register of licensed bodies for the purpose of section 87 of the 2007 Act;

“the Register” means the combined register kept by IPReg comprising, as sub-registers, the Patent Attorney Register and the Trade Mark Attorney Register, and in respect of ABS, is IPReg’s Register of licensed bodies for the purpose of section 87 of the 2007 Act;

“Registered European Lawyer” means a lawyer regulated by the Solicitors Regulation Authority or the Bar Standards Board under that title;

“Registered Foreign Lawyer” and “exempt European lawyer” mean lawyers regulated by the Solicitors Regulation Authority under those titles;

“Registered Body” means a body (corporate or unincorporated) entered (or where clear in the context, applying to be entered) in the Patent Attorney Register and/or the Trade Mark Attorney Register, and:

- (a) a body which is an ABS and is entered in the Register, becomes upon that entry, a licensed body under the 2007 Act;
- (b) “Registration” and “Registered” shall be construed accordingly and shall mean, in respect of ABS, “licensing” and “being licensed” for the purpose of the 2007 Act; and

(c) for the avoidance of doubt, references to “Registration” and “Register” in these regulations are to initial registration and any renewal of registration;

“Regulatory Arrangements” has the meaning given to it by section 21 of the 2007 Act;

“the Regulatory Objectives” are those set out in section 1 of the 2007 Act;

“Reserved Legal Activity” has the same meaning as in section 12 of the 2007 Act;

“the Rules of Conduct” means IPReg’s Rules of Conduct for Patent Attorneys, Trade Mark Attorneys and Other Regulated Persons and the Special Rules of Professional Conduct applicable to Regulated Persons conducting litigation or exercising a right of audience before the Courts;

“Trade Mark Attorney Register” in respect of Registered persons other than ABS, means the Register kept under section 83 of the Trade Marks Act 1995 as amended, and in respect of ABS, is part of IPReg’s Register of licensed bodies for the purpose of section 87 of the 2007 Act;

“the 2007 Act” means the Legal Services Act 2007.

Regulation 2 – Form, Timing and Fees of Applications

2.1 All applications made to IPReg, under these regulations or otherwise, in respect of a Registered Body, a body applying to be Registered, or a body’s Managers, Owners or employees, including its HoLP or HoFA, must comprise:

- (a) the prescribed form, correctly completed;
- (b) the correct fee or fees for the application, as determined from time to time by IPReg;
- (c) such additional information, documents and references as may be specified by IPReg; and
- (d) any additional information or documentation which IPReg may reasonably require.

2.2 It is not necessary to submit all documents, information and payments simultaneously, but an application will only have been made once IPReg has received all of the documentation, information and payments comprising that application.

PART 2 – REGISTRATION AND CONDITIONS

Regulation 3 – Registration by IPReg

3.1 IPReg will not Register a body if IPReg is not satisfied that IPReg has suitable Regulatory Arrangements in place to regulate that body in accordance with IPReg’s statutory duties and the Regulatory Objectives. For the avoidance of doubt, and

without limiting the generality of the foregoing sentence, IPReg will not Register a body which undertakes (to whatever extent) any of the following activities:

- (a) criminal law;
- (b) family or matrimonial law;
- (c) conveyancing other than conveyancing of intellectual property rights;
- (d) real estate related legal services;
- (e) probate and the drafting of wills;
- (f) immigration law;
- (g) personal injury litigation, including medical negligence;
- (h) administrative law, except in so far as it relates to intellectual property; or any related services.

3.2 A body may, before making an application for Registration, request the opinion of IPReg on whether IPReg has suitable Regulatory Arrangements to Register that body. An opinion provided under this regulation does not amount to a refusal or grant of an application for Registration and shall not in any way prejudice IPReg's determination of any such application.

3.3 For the purpose of regulation 3.1, "suitable Regulatory Arrangements" has the same meaning as in Paragraph 7 of Schedule 12 to the 2007 Act save that the term "licensable body" in that Paragraph shall be read as including non-ABS.

Regulation 4 – Determination

4.1 Subject to regulations 4.2 and 4.3, IPReg may only grant an application for Registration if it is satisfied that the applicant body is a partnership, LLP or company which meets the eligibility criteria set out in Annex A.

4.2 IPReg may refuse an application for Registration if:

- (a) it is not satisfied under regulation 3 that it has suitable Regulatory Arrangements to Register the body;
- (b) it is not satisfied that the body's Managers or Owners are suitable, as a group, to operate or control a business providing regulated legal services;
- (c) it is not satisfied that, if Registered, the body will conduct its activities in a way that is consistent with the Regulatory Objectives;
- (d) the body has provided inadequate or misleading information; or
- (e) for any other reason, IPReg reasonably considers that it would be against the public interest to grant Registration.

4.3 In reaching a decision under this regulation, IPReg may take into account:

- (a) any conduct on the part of a Manager or Owner of the applicant body which calls into question their honesty, integrity or respect for the processes of law;
- (b) any failure or refusal to disclose, or attempt to conceal, a matter in relation to the application;
- (c) the extent to which the Managers and Owners of the applicant body, taken together, have sufficient skills and knowledge to run and manage a business which provides the legal and ancillary services which are the subject of the application; and
- (d) any other information which IPReg reasonably considers appropriate to take into account.

4.4 In reaching a decision under this regulation, IPReg will take into account, so far as is reasonably practicable, the Regulatory Objectives, including the objective of improving access to justice, and will determine applications in a way which is most appropriate for the purpose of meeting those objectives.

Regulation 5 – Decision Period and Notification

5.1 Subject to regulation 5.2, before the end of the period of 6 months beginning with the day on which any application for Registration is received (the “decision period”), IPReg must:

- (a) decide the application;
- (b) notify the applicant body of its decision; and
- (c) if it decides to refuse the application, set out in the notice the reasons for the refusal.

5.2 IPReg may, on one or more occasions, give the applicant body a notice extending the decision period (an “extension notice”), but:

- (a) an extension notice may only be given before the time when the decision period would end but for the extension notice;
- (b) the total decision period must not exceed 9 months; and
- (c) an extension notice must set out the reasons for the extension.

Regulation 6 – Form and Effect of Registration

6.1 A body which is eligible for Registration in the Patent Attorney Register and in the Trade Mark Attorney Register shall be Registered in both Registers unless IPReg receives an express request from the body that Registration should be limited to only one of the Registers.

6.2 The entry of an ABS in the Patent Attorney Register and/or the Trade Mark Attorney Register constitutes the grant of a licence under the 2007 Act.

- 6.3 A Registration under these regulations, including for the avoidance of doubt a licence under the 2007 Act, will be granted in the terms set out in the specimen Registration certificate at Annex C subject to any amendments made and any further conditions imposed by IPReg.

Regulation 7 – Terms and Conditions of Registration

- 7.1 Every Registration granted under these regulations is subject to:
- (a) the payment, on the date of the grant of Registration, of such contribution to the compensation scheme maintained under regulation 19 as required by IPReg;
 - (b) the obligations in regulation 7.2;
 - (c) the general terms and conditions set out in the specimen Registration certificate at Annex C, subject to any amendments made by IPReg; and
 - (d) any further conditions imposed by IPReg under regulation 7.3.
- 7.2 Every Registered Body must:
- (a) by the prescribed date each year:
 - (i) submit a self-assessment return in the prescribed form;
 - (ii) pay the Registration fee set by IPReg for that body;
 - (iii) pay such contribution to the compensation scheme maintained under regulation 19 as required by IPReg;
 - (b) submit any additional information or self-assessment returns required by IPReg; and
 - (c) as soon as reasonably practicable, inform IPReg of any change in its circumstances which renders or may render the body non-compliant with the eligibility criteria in Annex A, or which does or may give rise to a material breach by the body, its Managers, Owners or employees (including its HoLP and HoFA), of these regulations, a term or condition of the body's Registration or any other obligations imposed by IPReg's Regulatory Arrangements, including the Rules of Conduct.
- 7.3 IPReg may impose one or more further conditions on a Registered Body's Registration:
- (a) when granting Registration;
 - (b) when granting approval of an Owner, Manager, HoLP or HoFA under Part 4 of these regulations, including the temporary approval of a HoLP or HoFA under regulation 15.7;
 - (c) when deciding whether to withdraw an approval under regulation 15.9;

- (d) when granting temporary emergency Registration under regulation 21; or
- (e) at any other time.

7.4 IPReg may impose a condition under regulation 7.3 where it considers:

- (a) that:
 - (i) the condition would limit, restrict, halt or prevent an activity on the part of the body, or of a Manager, an employee (including, for the avoidance of doubt, the HoLP or HoFA) or an Owner of the body, which is putting or is likely to put at risk the interests of clients, third parties or the public;
 - (ii) the condition would limit the activities of a Manager or an employee of the body who is considered unsuitable to undertake a particular activity, either at all or save as specified in the condition;
 - (iii) the condition would limit, halt or prevent a risk to clients, third parties or the public arising from a business agreement or association which the body has or is likely to enter into, or a business practice which the body has or is likely to adopt;
 - (iv) the condition is necessary where, in relation to a Registered Body, a relevant insolvency event as defined in Paragraph 1(3) of Schedule 14 to the 2007 Act has occurred but the event has not triggered the expiry of Registration under regulation 9.2;
 - (v) the condition is necessary to facilitate closer monitoring by IPReg of compliance by a Registered Body, its Managers, Owners, HoLP or HoFA, with IPReg's Regulatory Arrangements, including these regulations and the terms and conditions of the body's Registration;
 - (vi) imposing the condition will require the body concerned to take specified steps conducive to the carrying on of an efficient practice by that body; or
 - (vii) the condition is necessary in any other case, having regard to IPReg's statutory duties and the Regulatory Objectives;

and

- (b) that it is in the public interest to impose the condition.

7.5 A condition imposed under this regulation takes effect from the date on which it is imposed unless a later date is specified by IPReg.

Regulation 8 – Modification of Terms and Conditions

8.1 Subject to the provisions of the 2007 Act, IPReg may, at any time and by giving written notice to the Registered Body, modify any terms or conditions of a Registration:

- (a) on the application of the Registered Body; or

(b) without such an application being made.

8.2 IPReg shall have regard to:

- (a) the criteria in regulation 7.4, when deciding whether to modify a condition of Registration; and
- (b) the Regulatory Objectives, when deciding whether to modify a term of Registration.

8.3 Any modification will have effect from the date of the notice given under regulation 8.1 or such later time as may be specified in the notice.

PART 3 – DURATION OF REGISTRATION, RENEWAL, SUSPENSION AND REVOCATION

Regulation 9 – Duration, Expiry and Renewal of Registration

9.1 A body's Registration takes effect from the date of the Registration certificate, and continues in force until it expires or ceases to have effect in accordance with regulation 9.2 or 9.3, or it is revoked or suspended under regulation 10.

9.2 A body's Registration will automatically expire:

- (a) in accordance with the conditions of the Registration if they provide for expiry; or
 - (b) if the body is wound up or for any other reason ceases to exist;
- whichever is the earliest.

9.3 A licence granted by IPReg to an ABS ceases to have effect upon the issuing of a licence to that ABS by another licensing authority.

Regulation 10 – Suspension or Revocation of Registration

10.1 IPReg may suspend or revoke a body's Registration, if:

- (a) Registration was granted as a result of error or fraud;
- (b) the body's application for Registration would be refused under regulation 4 if it were at that time applying for Registration;
- (c) the body has breached one or more terms or conditions of its Registration including any of the obligations imposed by regulation 7.2 above;
- (d) the body has a temporary emergency Registration but has not, within the initial 28 day period or any extension of that period, commenced a substantive application for Registration;
- (e) a Non-Authorised Person is an Owner of the Registered Body in breach of these regulations and/or Schedule 13 of the 2007 Act;

- (f) a Non-Authorised Person who is subject to the duty in section 90 of the 2007 Act fails to comply with that duty;
 - (g) the body, or a Manager, an Owner or an employee of the body (including, for the avoidance of doubt, the HoLP or HoFA), fails to comply with the duties imposed by IPReg or under any enactment including section 176 of the 2007 Act;
 - (h) the body has ceased to practise;
 - (i) an approved regulator (as defined in the 2007 Act) other than IPReg has authorised the body;
 - (j) IPReg has received an application by the body to revoke its Registration and is satisfied that revocation would not present a risk to clients, to the protection of client money, or to any investigative process; or
 - (k) for any other reason, it would be against the Regulatory Objectives for the body's Registration to continue.
- 10.2 (a) Subject to regulation 22, IPReg may suspend or revoke the licence of a Registered Body which is an ABS, if that body ceases to be an ABS.
- (b) Unless its Registration has expired or is suspended or revoked by IPReg, a body whose licence is suspended or revoked under regulation 10.2(a) will remain on the Register, and will, from the date of the suspension or revocation, be Registered under the Copyright, Designs and Patents Act 1988 and/or the Trade Marks Act 1994 as applicable.
- 10.3 (a) Subject to (b) below, suspension or revocation takes effect on expiry of the notice period under regulation 18.2(a) or on such later date as may be stated in the notice;
- (b) If an appeal, either under regulation 17 of these regulations or under rules 19 and 20 of the Disciplinary Procedure Rules, is made before the revocation takes effect, the revocation is suspended pending determination or discontinuance of the appeal, unless in the opinion of IPReg the proceedings on that appeal have been unduly protracted by the appellant or are unlikely to be successful.
- (c) A suspension remains in force until the matter giving rise to the suspension has been rectified or otherwise resolved to the satisfaction of IPReg.

PART 4 – OWNERS, MANAGERS, HOLP AND HOFA

Regulation 11 – Managers

- 11.1 No person may be a Manager of a Registered Body unless that person has been approved by IPReg under these regulations.

11.2 Any person appearing on the Patent Attorney Register and/or the Trade Mark Attorney Register shall be deemed approved as a Manager.

Regulation 12 – Non-authorised Owners

12.1 A Non-Authorised Person may not be an Owner of a Registered Body unless that person has been approved by IPReg to be an Owner in accordance with these regulations and Schedule 13 of the 2007 Act.

Regulation 13 – HoLP and HoFA

13.1 The HoLP of a Registered Body must be an individual who:

- (a) is a Manager of the body;
- (b) is a Registered patent attorney, a Registered trade mark attorney, a lawyer of England and Wales, a Registered European Lawyer, a Registered Foreign Lawyer or an exempt European lawyer; and
- (c) has been designated by the Registered Body to be its HoLP and that designation has been approved by IPReg under these regulations.

13.2 For the purpose of regulation 13.1(c), a designation of an individual as HoLP has effect only while the individual:

- (a) consents to the designation;
- (b) is an Authorised Person in relation to one or more of the Reserved Legal Activities for which the Registered Body is authorised; and
- (b) is not disqualified under the 2007 Act from acting as HoLP.

13.3 The HoLP of a Registered Body must:

- (a) take all reasonable steps to ensure compliance with the terms and conditions of the body's Registration (except any obligations relating to accounts and money-handling), and with the duties imposed by sections 90 and 176 of the 2007 Act; and
- (b) as soon as reasonably practicable, report to IPReg any failure so to comply.

13.4 The HoFA of a Registered Body must be an individual who:

- (a) is a Manager or an employee of the Registered Body;
- (b) is suitably qualified to fulfil the role of HoFA; and
- (c) has been designated by the Registered Body to be its HoFA and that designation has been approved by IPReg under these regulations.

13.5 For the purpose of regulation 13.4(c), a designation of an individual as HoFA has effect only while the individual:

- (a) consents to the designation; and

(b) is not disqualified under the 2007 Act from acting as HoFA.

13.6 The HoFA of a Registered Body must:

(c) take all reasonable steps to ensure compliance with any obligations relating to accounts and money-handling imposed by IPReg in the Rules of Conduct or under the terms and conditions of the body's Registration ; and

(d) as soon as reasonably practicable, report to IPReg any failure so to comply.

13.7 Provided that the approval criteria and other requirements are met, nothing in these regulations shall prevent an individual from concurrently acting as the HoLP and HoFA of a Registered Body.

Regulation 14 – Approval of Owners, Managers, HoLP and HoFA

14.1 IPReg may not approve a person to be a Manager, an Owner, HoLP or HoFA of a Registered Body, if IPReg is not satisfied that the person concerned is suitable to be involved in the provision of legal services, and to exercise influence over the conduct of the Registered Body because:

(a) the person or any Registered Body or other entity of which that person has previously been a Manager, an Owner or an employee, has been:

(i) notified in writing by IPReg that it does not regard as satisfactory an explanation given at IPReg's request; or

(ii) made the subject of disciplinary sanction by, or refused Registration with, or authorisation by, another approved regulator, professional or regulatory tribunal, or regulatory authority, whether in England and Wales or elsewhere,

in respect of a matter involving the person concerned;

(b) the person concerned:

(i) has been disqualified from being a company director;

(ii) has been disqualified from being a Manager, an Owner, HoLP or HoFA under the 2007 Act;

(iii) has been removed from the office of trustee for a charity by an order within the terms of section 72(1)(d) of the Charities Act 1993;

(iv) is an undischarged bankrupt;

(v) has been adjudged bankrupt and discharged;

(vi) has entered into a voluntary arrangement or a partnership voluntary arrangement under the Insolvency Act 1986;

(vii) has been a Manager of a company, LLP or other body which has been the subject of a winding up order, an administration order or

administrative receivership or which has entered into a voluntary arrangement under the Insolvency Act 1986 or has otherwise been wound up or put into administration in circumstances of insolvency;

- (viii) lacks capacity (within the meaning of the Mental Capacity Act 2005) and powers under sections 15 to 20 or section 48 of that Act are exercisable in relation to that person;
- (ix) is the subject of outstanding judgments involving the payment of money;
- (x) has been committed to prison in criminal proceedings;
- (xi) is currently charged with an indictable offence, or has been convicted of an indictable offence or any offence under the 2007 Act, the Solicitors Act 1974, the Financial Services and Markets Act 2000, the Immigration and Asylum Act 1999 or the Compensation Act 2006;
- (xii) has been the subject of an order under section 43 of the Solicitors Act 1974;
- (xiii) has been the subject of an equivalent circumstance in another jurisdiction to those listed in (i) to (xii); or
- (xiv) has been involved in other conduct which calls into question their honesty, integrity or respect for the processes of law;
- (xv) has committed an offence under the Companies Act 2006;
- (xvi) in the case of an application for approval as a manager, HOLP or HOFA of an ABS, the person has a previous conviction which is now spent for a criminal offence relating to bankruptcy, IVAs or other circumstances of insolvency;
- (xvii) where the person is a corporate person/entity, it:
 - (a) has been has been the subject of a winding up order, an administration order or administrative receivership or which has entered into a voluntary arrangement under the Insolvency Act 1986 or has otherwise been wound up or put into administration in circumstances of insolvency; or
 - (b) other matters that call its fitness and propriety into question are disclosed or come to light;
 - (c) the Registered Body or the person concerned fails to disclose, refuses to disclose or seeks to conceal any matter within (a) or (b) above in relation to the approval application.

14.2 IPReg may not approve a person to be an Owner of a Registered Body unless it is satisfied that in addition to the criteria in regulation 14.1, the requirements in Paragraph 6 of Schedule 13 to the 2007 Act are met.

14.3 IPReg may not approve an individual's designation as HoLP or HoFA of a Registered Body unless IPReg is satisfied that the individual meets the

requirements set out in regulation 13 and is in a position of sufficient responsibility to fulfil the duties of HoLP or HoFA (as applicable) in relation to the Registered Body.

Regulation 15 – Approval process

- 15.1 The approval process for Owners is that set out in Schedule 13 of the 2007 Act and not governed by regulation 15.
- 15.2 An application for the approval of a Manager, HoLP or HoFA must be made by the Registered Body concerned and may be made:
- (a) in advance of an application for Registration;
 - (b) when applying for Registration; or
 - (c) at any time after Registration has been granted.
- 15.3 Where the Registered Body applies for approval following the grant of Registration, it must not allow the person concerned to become a Manager, HoLP or HoFA (as applicable) until it has received written notice that the person has been approved.
- 15.4 (a) It is for the Registered Body to demonstrate that the person concerned meets the criteria for approval.
- (b) The Registered Body must co-operate, and secure the co-operation of the person concerned, to assist IPReg to obtain all information and documentation necessary to determine the application.
 - (c) The person concerned must confirm in writing on the face of the application that the information supplied about them is correct and complete.
- 15.5 IPReg's decision to approve or refuse approval must be notified in writing to the Registered Body and, separately, to the person concerned.
- 15.6 Approval takes effect from the date of the decision unless otherwise stated, and continues until:
- (a) the approved person is disqualified from being a Manager, HoLP or HoFA (as applicable) of a Registered or licensed body;
 - (b) the approval is withdrawn; or
 - (c) the person ceases to hold the approved position in the Registered Body who applied for the approval.
- 15.7 (a) IPReg may grant a temporary approval of a designation as HoLP or HoFA where due to an unforeseen event, a Registered Body ceases to have a designated and approved HoLP or HoFA and within seven days:
- (i) informs IPReg of that fact;
 - (ii) designates a suitable person to replace the previous HoLP or HoFA; and

- (iii) makes an application for the temporary approval of that person.
 - (b) Subject to regulation 15.9 below, a temporary approval shall be valid for 28 days or such other period as specified by IPReg.
- 15.8 IPReg may at any time request an approved person or the Registered Body concerned to provide it with such information or documentation as it considers necessary to satisfy IPReg that the approved person continues to meet the criteria for approval.
- 15.9 (a) IPReg may withdraw an approval, including a temporary approval, if:
- (i) it is not satisfied that an approved person continues to meet the criteria for approval;
 - (ii) information or documentation is not promptly supplied in response to a request made under regulation 15.8;
 - (iii) IPReg is satisfied that the approved person has breached a duty imposed on them under IPReg’s Regulatory Arrangements or any enactments;
- (b) Subject to (c) below, withdrawal of approval takes effect on expiry of the notice period under regulation 18.2 or such later date as may be stated in the notice.
 - (c) If an appeal is made before the withdrawal of approval takes effect, the withdrawal is suspended pending the determination or discontinuance of the appeal, unless in the opinion of IPReg the proceedings on that appeal have been unduly protracted by the appellant or are unlikely to be successful.
 - (d) Where withdrawal of approval relates to a director of a company, IPReg may set separate dates for that person ceasing to be a director and disposing of any shares that they hold.

PART 5 – RECONSIDERATION AND APPEALS

Regulation 16 – Reconsideration

- 16.1 IPReg may reconsider or rescind a decision made under these regulations when it appears that IPReg:
- (a) was materially misled;
 - (b) failed to take proper account of material facts or evidence;
 - (c) took into account immaterial facts or evidence;
 - (d) made a material error of law;
 - (e) made a decision which was otherwise irrational or procedurally unfair;
 - (f) made a decision which was otherwise ultra vires; or
 - (g) failed to give sufficient reasons.

Regulation 17 – Appeals

17.1 A person who is the subject of a decision by IPReg under these regulations may appeal the decision by invoking the appeal procedure set out in the IPReg Appeals Rules, within the time limits specified therein.

PART 6 – MISCELLANEOUS PROVISIONS

Regulation 18 – Notification of decisions by IPREG

18.1 IPReg shall notify its reasons in writing when it:

- (a) refuses any application under these regulations;
- (b) grants the application subject to one or more conditions; or
- (c) refuses a permission required under a condition on a body's Registration.

18.2 IPReg will give 28 days' written notice, with reasons:

- (a) to the Registered Body concerned, when IPReg decides to impose a condition on the body's Registration or to suspend or revoke the body's Registration;
- (b) to the body and the person concerned, when IPReg decides to withdraw its approval of a Manager, HoLP or HoFA, under regulation 15.9.

18.3 Except in respect of a suspension or revocation, IPReg may shorten or dispense with the 28 day period under 18.2 if it considers it appropriate to do so.

Regulation 19 – IPReg's compensation arrangements

- (a) IPReg will maintain such compensation arrangements as it, from time to time, considers appropriate, having regard to its statutory duties and the public interest.
- (b) Subject to (a) and any variations or further rules or arrangements made by IPReg, the principal terms of its current compensation scheme are set out in Annex B.

Regulation 20 – Waivers

20.1 Subject to any legal restrictions on its ability to do so, IPReg may, in respect of a body or type of bodies, waive any provision in these regulations and any terms or conditions of Registration, and may revoke such a waiver at any time.

Regulation 21 – Temporary Emergency Registration following a Partnership split

21.1 If a partnership split brings into being a new partnership which is not a Registered Body:

- (a) the partners of the new partnership must notify IPReg of that fact within 7 days; and

- (b) temporary emergency Registration may be granted, subject to regulations 21.2 to 21.4 below, so as to enable the new partnership to lawfully practise for a limited period.

21.2 An application for temporary emergency Registration may be made by telephone, provided that details given by telephone are confirmed in writing on the same day, and must be made (or confirmed) at the earliest possible opportunity on the prescribed form and accompanied by all information and documentation that IPReg may reasonably require.

21.3 IPReg may grant an application for temporary emergency Registration if it is satisfied that:

- (a) the partners could not reasonably have commenced an application for Registration in advance of the change; and
- (b) the partnership appears to comply with the eligibility criteria set out in Annex A.

21.4 Temporary emergency Registration:

- (a) will be granted for 28 days unless a different period is specified by IPReg;
- (b) may be extended in response to a reasonable request by the applicant body;
- (c) will be extended pending determination of a substantive application for Registration commenced during the currency of the temporary emergency Registration;
- (d) cannot prejudice IPReg's discretion to refuse a substantive application for the Registration of the body under regulation 4; and
- (e) in exceptional circumstances and for reasonable cause, may be revoked with immediate effect.

Regulation 22 – Unforeseen temporary breaches

If due to an unforeseen event:

- (a) a Registered Body which is an ABS ceases to be an ABS;
- (b) a Registered Body no longer complies with the eligibility criteria set out in Paragraphs 1 and 2 of Annex A; or
- (c) a Registered Body which is a partnership ceases to be a body because it has fewer than two members;

but IPReg is informed of that fact within seven days of the event first occurring, and within 28 days of the event first occurring or such other period as may be specified by IPReg, the Registered Body returns to being an ABS, compliant with the eligibility criteria, or a body (as applicable), then the body will be deemed to have remained so during the said period and to that extent, will not be liable to have its licence or Registration revoked or suspended.

Regulation 23 – Special bodies

23.1 IPReg does not accept applications for any order to be made by it under section 106 of the 2007 Act.

Regulation 24 – Transitional provisions

24.1 Except where it is an ABS, a body which was Registered by IPReg before the Commencement Date will be deemed to be Registered under these regulations and is not required to:

- (a) re-apply for Registration whilst its existing Registration remains effective; or
- (b) comply with any requirements in these regulations relating to HoLP and HoFA until after the expiry of a 6 month notice, which notice shall be given no earlier than 1st January 2015.

24.2 Any Manager of a Registered Body who was approved by IPReg before the Commencement Date shall be deemed to have been approved under these regulations and the approval shall remain effective subject to any terms and conditions of the approval and these regulations.

24.3 Applications for Registration, approval of a person to be a Manager, or temporary emergency Registration, made before the Commencement Date but not decided by then, will be determined under these regulations.

Regulation 25 – Name and designation of a Registered Body

25.1 A body corporate will be Registered under its corporate name.

25.2 An unincorporated body must elect to have a name under which it is to be Registered.

Regulation 26 – The Register

26.1 IPReg shall keep a Register comprising of two sub-Registers, being the Patent Attorney Register and the Trade Mark Attorney Register.

26.2 The Register shall contain, for each Registered Body (as relevant), the following information:

- (a) the name, and trading name if different, under which the body is Registered;
- (b) the body's Registered address and practising address(es);
- (c) the date on which Registration was granted;
- (d) in the case of an ABS, that the body is licensed under the 2007 Act;
- (e) whether the body's Registration has been suspended or revoked and the date on which suspension or revocation took place;
- (f) any enforcement action taken against the body or any of its Owners or employees (except administrative fines);

- (g) any previous names of the body;
 - (h) all company Registration numbers, charity numbers or equivalent as relevant;
 - (i) the names of the body's HoLP and HoFA;
 - (j) the authorising regulatory body of the HoLP;
 - (k) the Reserved Legal Activities that the body is authorised to undertake; and
 - (l) any other information that IPReg considers appropriate to include.
- 26.3 (a) The Register may be kept in electronic form and made available on IPReg's website.
- (b) Entries in the Register shall be available for inspection by any member of the public.

Regulation 27– Commencement

- 27.1 These regulations apply from the Commencement Date. They replace the Patent Attorney and Trade Mark Attorney Registered Bodies Regulations which from the Commencement Date cease to have effect.

ANNEX A – ELIGIBILITY CRITERIA FOR REGISTRATION

A partnership, LLP or company (“body”) may be entered in the Patent Attorney Register and/or the Trade Mark Attorney Register if it meets all of the criteria in (1) to (6) below.

- (1) (a) In the case of a body applying to be entered in the Patent Attorney Register, the body undertakes as its primary activity legal services relating to any of the development and protection, and management and exploitation of patents and registered designs (alone or in combination with the legal services described in 1(b) below), including but not limited to the business of acting as agent for others for the purpose of:
 - (i) applying for or obtaining patents and registered designs, in the United Kingdom or elsewhere; and/or
 - (ii) conducting proceedings before the Comptroller General of Patents, Designs and Trade Marks relating to applications for, or otherwise in connection with, patents and registered designs;together with the provision of any other legal services ancillary to the legal services described above;
 - (b) In the case of a body applying to be entered in the Trade Mark Attorney Register, the body undertakes as its primary activity legal services relating to any of the development and protection, and management and exploitation of trade marks (alone or in combination with the legal services described in 1(a) above), including but not limited to the business of acting as agent for others for the purpose of:
 - (i) applying for or obtaining the registration of trade marks and registered designs, in the United Kingdom or elsewhere; and/or
 - (ii) conducting proceedings before the Comptroller General of Patents, Designs and Trade Marks relating to applications for, or otherwise in connection with, the registration of trade marks and registered designs;together with the provision of any other legal services ancillary to the legal services described above.
- (2) The body carries on non-legal activities and provides non-legal services that are ancillary to 1(a) and/or (b) above and only concern or relate to the creation, development, maintenance, exploitation or otherwise of intellectual property and activities ancillary thereto.
 - (3) (a) In the case of a partnership:

- (i) which applies to be entered in the Patent Attorney Register, at least one of the partners is a person (ABS or other) who is on the Patent Attorney Register.
 - (ii) which applies to be entered in the Trade Mark Attorney Register, at least one of the partners is a person (ABS or other) who is on the Trade Mark Attorney Register.
 - (b) In the case of an LLP or company:
 - (i) which applies to be entered in the Patent Attorney Register, at least one of the Managers is a person (ABS or other) who is on the Patent Attorney Register.
 - (ii) which applies to be entered in the Trade Mark Attorney Register, at least one of the Managers is a person (ABS or other) who is on the Trade Mark Attorney Register.
- (4) The body:
- (i) In the case of an ABS, has a practising address (as defined in Para 15, Schedule 11 of the 2007 Act) in England and Wales and, in all other cases, the United Kingdom; and
 - (ii) In the case of an ABS, is domiciled, or has a real and effective industrial or commercial establishment, in England and Wales and, in all other cases, the United Kingdom.
- (5) All non-authorized Managers of the body have been approved under Part 4 of these regulations.
- (6) In the case of an ABS, all non-authorized Owners of the body have been approved under Part 4 of these regulations and Schedule 13 of the 2007 Act.
- (7) The body confirms that it will abide by IPReg's Regulatory Arrangements, including the Rules of Conduct, and with the terms and conditions of its Registration.
- (8) IPReg is satisfied that if Registered, the body will be in compliance with the terms and conditions of its Registration.

ANNEX B – COMPENSATION ARRANGEMENTS

Subject to regulation 19, the principal terms of IPReg’s compensation scheme are as follows:

- (1) IPReg will maintain an insurance policy or operate a compensation fund under which grants may be made to compensate for losses or hardship suffered by persons in consequence of fraud or other dishonesty, or a failure to account for money by a Registered Body or its employees and Managers, to the extent that such losses are not covered by professional indemnity insurance.
- (2) Registered bodies shall contribute to the costs of the scheme, through annual contributions required under regulations 7.1(a) and 7.2(a)(iii).
- (3) Only:
 - (a) current and former individual clients, and
 - (b) micro, small and medium-sized enterprises who are or were clients of the Registered Body will be entitled to benefit from the arrangements.
- (4) All grants will be made within the terms of the insurance policy referred to in paragraph (1).
- (5) All grants will be made at the sole discretion of IPReg and subject to a cap of £25,000 per claimant.
- (6) All applications for grants must be made in the form and within the time period prescribed by IPReg.

ANNEX C – SPECIMEN REGISTRATION CERTIFICATE

Registration Certificate

This certificate is issued by the Intellectual Property Regulation Board [under delegation from the Chartered Institute of Patent Attorneys/Institute of Trade Mark Attorneys] under section [84 of the Legal Services Act 2007] [83 of the Trade Marks Act 1994] [and] [275 of the Copyright, Designs and Patents Act 1988]

To: [name of firm] IPReg registration number [xxxxxxxxxxx]

Trading as: [delete if trading name is the same]

Registered Office [delete if not applicable]: [insert details]

Main practising address: [insert details]

Registration

[name of firm] is registered by the [Trade Mark Regulation Board] [and] [Patent Regulation Board] to undertake the following reserved legal activities:

1. the exercise of a right of audience;
2. the conduct of litigation;
3. reserved instrument activities;
4. the administration of oaths.

Pursuant to the IPReg Registered Bodies Regulations 201* this firm is regulated by the [Trade Mark Regulation Board] [and] [Patent Regulation Board] in respect of:

- (a) the carrying on of the reserved legal activities stated above,
- (b) any other reserved or non-reserved legal activities which fall within section 12 of the Legal Services Act 2007; and
- (c) any other activities which are subject to conditions imposed [under Part 5 of the Legal Services Act 2007] and as set out in this certificate.

This registration is granted from [date] and shall continue until it shall expire, cease to have effect in accordance with regulation 9, or shall be revoked or suspended in accordance with regulation 10, of the IPReg Registered Bodies Regulations 201*.

A detailed review of [Firm] will take place on the [date – three or five years from the date of registration at IPReg’s discretion].

(electronic signature)

Ann Wright

Chief Executive

This registration is subject to the following terms and conditions:

[Firm] shall comply with:

- the general conditions listed in the Annex to this licence; [and

- the following additional conditions [list any additional conditions that may be imposed on the body].

Unless otherwise indicated, all terms in the conditions must be construed in accordance with the IPReg Registered Bodies Regulations and the IPReg Disciplinary Procedure Rules.

Annex

General conditions for bodies registered by IPReg

1 A registered body must ensure at all times that:

(9) In the case of a body applying to be entered in the Patent Attorney Register, the body undertakes as its primary activity legal services relating to any of the development and protection, and management and exploitation of patents and registered designs (alone or in combination with the legal services described in 1(b) below), including but not limited to the business of acting as agent for others for the purpose of:

- (i) applying for or obtaining patents and registered designs, in the United Kingdom or elsewhere; and/or
- (ii) conducting proceedings before the Comptroller General of Patents, Designs and Trade Marks relating to applications for, or otherwise in connection with, patents and registered designs;

together with the provision of any other legal services ancillary to the legal services described above;

(c) In the case of a body applying to be entered in the Trade Mark Attorney Register, the body undertakes as its primary activity legal services relating to any of the development and protection, and management and exploitation of trade marks (alone or in combination with the legal services described in 1(a) above), including but not limited to the business of acting as agent for others for the purpose of:

- (iii) applying for or obtaining the registration of trade marks and registered designs, in the United Kingdom or elsewhere; and/or
- (iv) conducting proceedings before the Comptroller General of Patents, Designs and Trade Marks relating to applications for, or otherwise in connection with, the registration of trade marks and registered designs;

together with the provision of any other legal services ancillary to the legal services described above.

2 A registered body may carry on non-legal activities and provide non-legal services, provided that they are ancillary to 1(a) and/or (b) above and only concern or relate to the creation, development, maintenance, exploitation or otherwise of intellectual property and activities ancillary thereto.

3 A registered body must ensure that any obligation which may from time to time be imposed on the registered body, its owners, managers or employees (including its Head of Legal Practice (HOLP) and Head of Finance and Administration (HOFA)) by or under IPReg's regulatory arrangements or by or

under the LSA, the Copyright Designs and Patents Act 1988, the Trade Marks Act 1994 or any other enactment is complied with.

- 4 A registered body must at all times have a HOLP and a HOFA who comply with the requirements in regulations 13.1 and 13.4 respectively of the IPReg Registered Bodies Regulations.
- 5 A registered body must at all times have suitable arrangements in place to ensure that:
 - the body, its managers and employees (including, for the avoidance of doubt, the HOLP and HOFA) comply with IPReg’s regulatory arrangements as they apply to them, as required under s 176 LSA; and
 - the body, its managers and employees who are authorised persons maintain the professional principles set out in s 1 LSA;
 - the employees, managers and owners of that body who are non-authorised persons do nothing which causes, or substantially contributes to, a breach by the registered body or its employees or managers of IPReg’s regulatory arrangements;
 - its HOLP and HOFA are able to discharge their duties in accordance with IPReg’s regulatory arrangements.
- 6 A registered body must, by the prescribed date, pay the periodic regulatory fees prescribed from time to time by IPReg.
- 7 A registered body must not carry on a legal activity unless through a body and individual who is authorised to carry on that activity.
- 8 A registered body must ensure that any non-authorised manager or owner of the body has been approved by IPReg.
- 9 A registered body must not have:
 - any employee who is disqualified from being an employee of an registered body, or
 - any manager who is disqualified from being a manager of an registered body,under IPReg’s Disciplinary Rules or by any other regulator under s 99 LSA.
- 10 A registered body must at all times:
 - (a) In the case of an ABS, have a practising address (as defined in Para 15, Schedule 11 of the 2007 Act) in England and Wales and, in all other cases, the United Kingdom; and
 - (b) In the case of an ABS, be domiciled, or have a real and effective industrial or commercial establishment, in England and Wales and, in all other cases, the United Kingdom.