

**The Patent Regulation Board and the Trade Mark Regulation Board
(The Intellectual Property Regulation Board)**

Annual Report

2010

Annual Report & Financial Summary
for the Year Ended 31st December 2010

Chairman's Introduction

2010 was our inaugural year as regulator of Patent and Trade Mark professionals. The previous two years in set-up stage and 'shadow board' came to an end with the formal delegation agreement signed by both CIPA and ITMA in December 2009.

The formal transfer of regulatory powers was subject to LSB governance processes. That process resulted in a number of suggestions from the LSB to better reflect the regulatory objectives. I am delighted with the progress we have made – we still have a little way to go in areas such as harmonization of board appointment procedures and budget discussions – but we should acknowledge just how much solid and constructive work has been done and what we have achieved.

The year saw the publication of consultation documents, the establishment of our dedicated registers, the creation of an entity register and the collection of fees directly from the regulated community. Some of this may sound dull – but these are vital steps in establishing an effective regulatory presence.

The Board (which strictly speaking is two Boards – one for Patent Regulation and one for Trade Mark Regulation) met regularly and endeavoured throughout the year to communicate, not only with the institutes but also with registrants in many cities. Every effort is made to ensure we are not seen as a "London-centred" regulator. Events have taken place in Birmingham, Manchester, Leeds, Edinburgh, Glasgow and Bristol.

2011 is set to be as busy as 2010 as we further develop in areas of education, improved communication and becoming better equipped to carry out our duties. My thanks go to all Board members for their expertise and commitment. No Chairman or Board can function without dedicated staff. I am pleased to place on record my appreciation of Ann Wright our CEO, assisted by Karen Duxbury and Kate Hastings, without whom we would not have made our huge strides forward.

Michael Heap
March 2011

Chief Executive's Overview

The Board

The Board is scheduled to meet every other month. In 2010, the Board met more frequently due to the large workload associated with set up and, also, specifically to review the Governance Certificate to be issued to the Legal Services Board and the 2011 Business Plan and Budget.

For practical purposes the work of the Board is initially undertaken through committees; namely Education & Qualifications, Conduct & Disciplinary and Governance. Each committee is chaired by a lay member of the Board. The committees are advisory and all decisions are made by the Patent Regulation Board, the Trade Mark Regulation Board or both (as appropriate).

The Office

I was appointed in November 2009. I work three days each week.

In March our temporary administrator was replaced with two part time administrators. Kate Hastings works two days a week and looks after communications; both our presentations and the e mail enquiries. Karen Duxbury works three days a week and is an accountant. Karen will be running the entity register.

In April we moved from CIPA's offices to our own offices in Outer Temple.

Much of the legal documentation such as the Code had been prepared before 1st January but we have produced the forms for admission to the register and return to the registers and the practice fees forms.

The time taken to complete the Governance Report was far greater than expected and also identified shortcomings in the configuration of the Board which IPReg needs to address in 2011. This will involve the office in work beyond "business as usual" but is hopefully only a temporary additional pressure.

Working with:

We have had a number of meetings with the **Legal Ombudsman**¹ to establish a protocol for dealing with complaints. We are currently working on ways to share information and statistics. We represented the "Regulators" at seminars given to the employees of the Legal Ombudsman.

The **Legal Services Board**² has given us, and CIPA and ITMA, considerable guidance over the year on our role as the independent regulator and the oversight role of the Institutes as Authorised Regulators.

¹ The Legal Ombudsman deals with service complaints across the legal profession

² The Legal Services Board is the regulator of the authorised legal regulators

We have attended meetings at the Legal Services Board on Alternative Business Structures. We issued a survey to the professions and with us, CIPA and ITMA, are taking forward the decision whether to apply to be a Licensing Authority in order to regulate ABS.

We met with **PAMIA**³ in June and September and we have agreed to continue this quarterly cycle during 2011.

We have also had a series of meeting with the **other regulators** to discuss sharing resource and information.

The Legal Services Board have appointed James Meyrick to work with the smaller regulators and also an external consultant, Nick Smedley, to undertake a survey of the work of the smaller regulators in order to identify (and, therefore share) best practice and areas of risk.

Statistics:

Applications for Admission to the Patent Register

89

Applications for Admission to the Trade Mark Register

26

Applications by Entities

4

Complaints:

Much of the work dealing with complaints has been and will be dealt with the Legal Ombudsman. We have only had one formal complaint. However informal requests for guidance on conduct have been far more by attorneys in relation to the activities of other attorneys rather than from the public.

We are concerned that we should not to be used as leverage in what may be, essentially, a commercial dispute e.g. over “ownership” of client following.

Whatever the source of the complaint, however, we are obliged to follow the same processes and this is a cost to the profession as a whole.

³ PAMIA are professional indemnity insurers

Our Role

The LSB wrote an article for the CIPA Journal which was published in January. The full article can be found on our website but here is an extract which summarises our role:

“In summary, Approved Regulators fulfil their obligations by setting up separate regulatory bodies and leaving them to regulate. For the intellectual property Institutes, this means IPReg must be allowed responsibility to assess the risks that arise from the regulated community, to set a strategy to manage those risk and to assess and deploy the resources to deliver the strategy. The role of the Legal Services Board (LSB) is to provide an important safety net in this process as any party may call on us in our role as oversight regulator at any time if they have concerns about governance, effectiveness or independence.”

“It is tempting for the representative part of the Approved Regulator to create a role for itself of monitoring, evaluating and checking the activities of its independent regulatory body. We believe that this is wrong on two counts. Firstly, this is properly the role of the LSB as oversight regulator and attempts to oversee regulation risk undermining its independence and effectiveness. Secondly, setting up separate regulatory bodies and then taking an oversight role that goes beyond reviewing variance from settled plans and budgets not only compromises independence but also adds costs.”

Crispin Passmore (Strategy Director - LSB)

Community - Presentations

- Presentations to ITMA in March and June and CIPA in June.
- Participation in the CIPA Induction Day
- Presentation to FICPI (the National United Kingdom Association of the International Federation of Intellectual Property Attorneys)
- Presentation to the Professional Administrators Group
- Presentation to the Board of the Legal Ombudsman (Birmingham)
- Presentation to Marks & Clerk
- Presentation to Murgitroyd
- Presentation to Harrison Goddard Foote
- Attendance at the BAE Training Day in Farnborough

Community – articles and other

- February article in CIPA and ITMA Journals about IPReg
- July article in CIPA and ITMA Journals about the “ABS Road Show” presented by the LSB
- Attending three TIPLo events
- Arranged and chaired the presentation by the LSB on Alternative Business Structures

Looking Forward

We are keen to meet more registrants. We can give presentations about us and the LSB and the Legal Ombudsman; about the Code of Conduct and also about complaints handling.

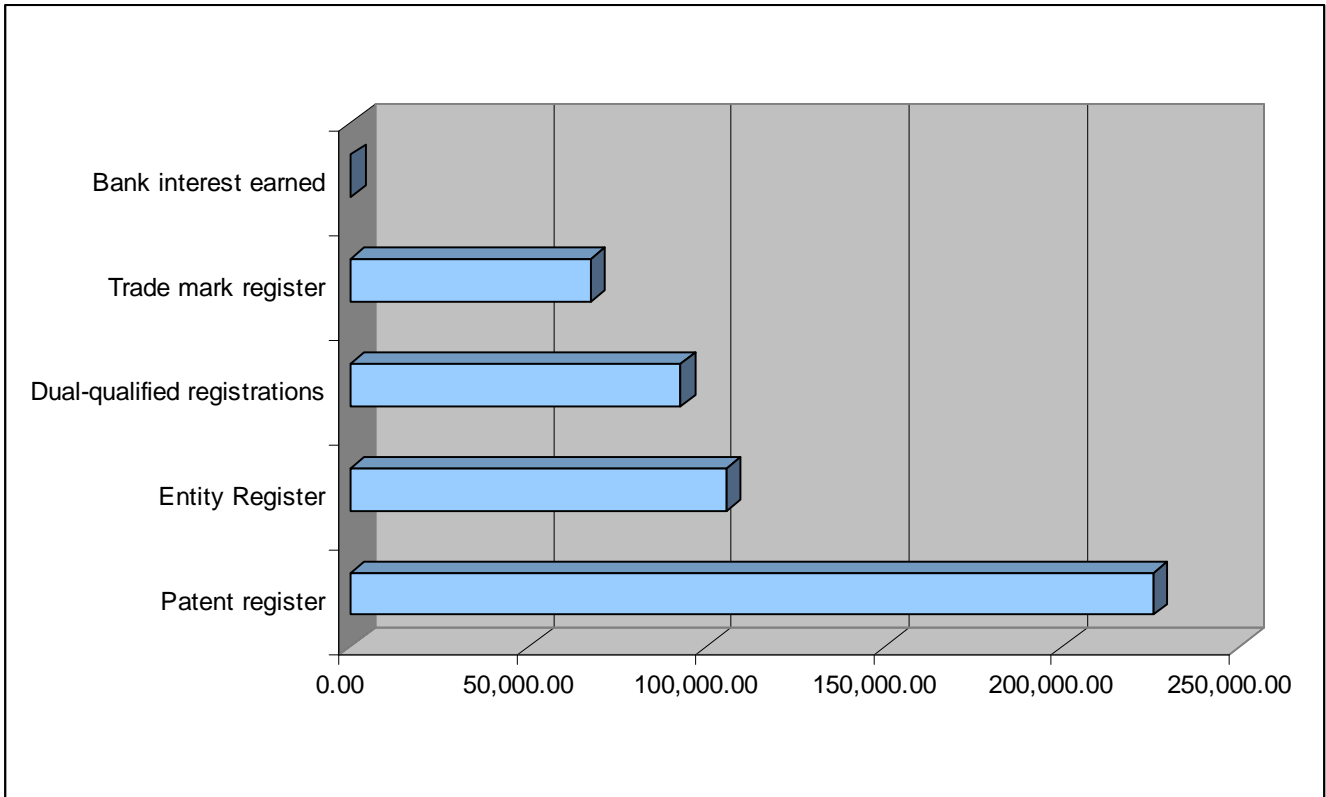
We would welcome further suggestions.

We would also particularly welcome the opportunity to speak to practitioners outside London.

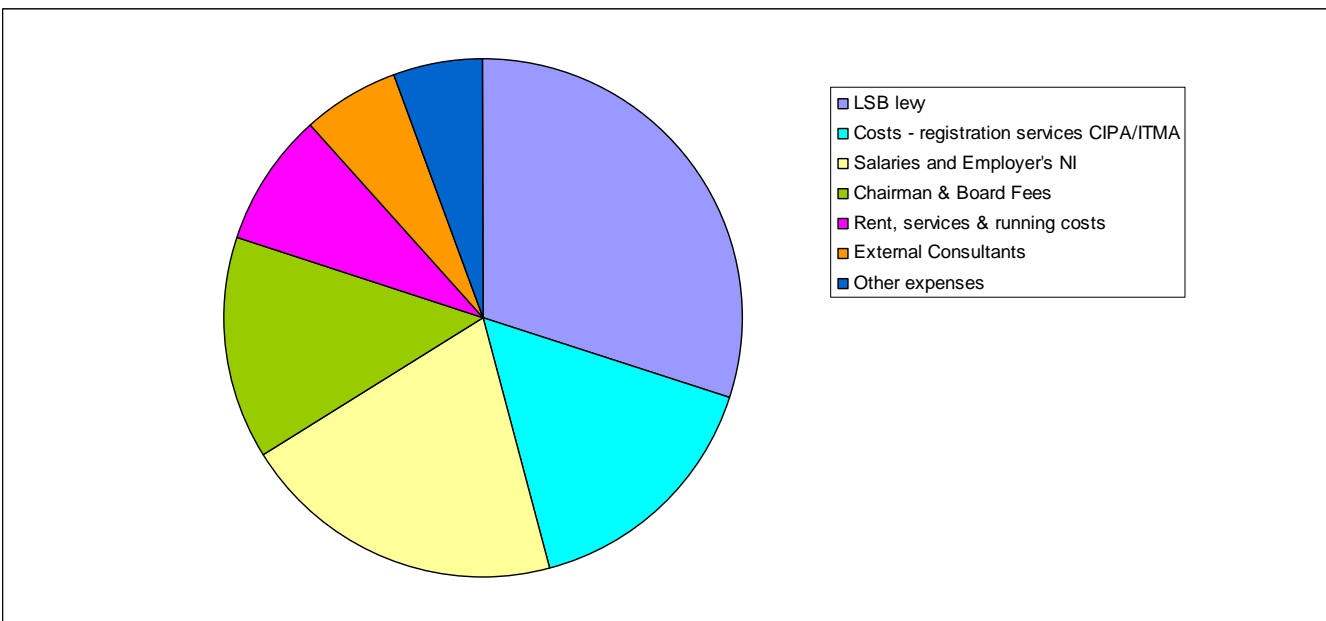
Kate Hastings

Financial Summary

2010 Breakdown of Income



2010 Breakdown of Expenditure & Costs



Business Plan for 2011

1 Policy Focus and Objectives for 2011

Our Work Programme beginning in 2011 will focus on achieving the following core objectives;

- a) **Regulatory Compliance** - Acquisition of sufficient extra resources, including an additional lay member, to fulfil our obligations as the independent regulator of registered patent and trade mark attorneys in the UK;
- b) **Communication** - Provision of expanded public communication and professional registration services through our website;
- c) **Education** – Scoping for implementation in 2012 an independent review of the process for qualification and examination of registrants; and
- d) **Consumer Protection** - Appointment and training of a Disciplinary Board to undertake hearings as required.

In addition, since Alternative Business Structures (ABSs) are given increasing prominence in regulatory terms, we will study (together with our ARs, CIPA and ITMA) the feasibility of IPREG regulating ABSs.

This work programme has been constructed as a proportionate and cost-effective response to meet the anticipated challenges to be faced by the Board during 2011. It builds upon the lessons we have learned during our first year of operation when there were no established operational precedents. The challenges stem from the increasing requirements imposed on the Patent Regulation Board (PRB) and Trade Mark Regulation Board (TRB), which operate together as IPREG under the supervision of the Legal Services Board (LSB), to apply the Legal Services Act 2007 to registered patent and trade mark attorneys in the UK.

2 Specific Work Programme for 2011

Details of the specific activities in our 2011 work programme are shown below together with their projected completion dates:

[Note: regular maintenance activities such as formal admissions to the registers, consideration of CPD returns etc. are not shown.]

| | Activity | Description | Completion |
|---|---|---|-------------------------|
| 1 | Regulatory Compliance: Secure additional manpower resources | Select and appoint extra staff to handle increased workload set out below | 1 st Q, 2011 |

| | Activity | Description | Completion |
|---|---|--|---|
| 2 | Communication: Establish entity Registers in house | Create appropriate databases to allow us to run and host the entity registers and make them available to the public | 1 st Q, 2011 |
| 3 | Communication: Website expansion – phase 1: feasibility and design | Appoint consultants to study the feasibility of expanding the IPREG website to include: (1) improved, wider public access to e.g. complaints handling, information on regulation, attorney registration data etc.; (2) facility for attorneys to register, complete CPD returns and make fee payments on-line; (3) capacity for IPREG to manage the various Registers in house; and (4) provision of an agreed system specification and plan for delivering the necessary functionality cost-effectively in stages | 1 st Q, 2011 |
| 4 | Communication: Provide email capability for direct communication with all registrants | Create a comprehensive database of email addresses of individual and entity registrants to allow us to disseminate information, communicate changes in regulations etc. direct to them | 1 st Q, 2011 |
| 5 | Regulatory Compliance: Additional lay member appointment | Advertise for and appoint, under Nolan principles, an additional lay member to serve on each of the PRB and TRB. | 1 st Q, 2011 |
| 6 | Education: Review IP education and training | Scope for commissioning in 2012 an independent review of education, training and qualification requirements for registered patent and trade mark attorneys to assess fitness for purpose against current best practice in legal education and training, building on previous expert reviews (e.g. Sherr, PARN, etc) | 1 st Q, 2011 onwards |
| 7 | Regulatory Compliance: Provide for professional board member succession | Advertise for, and appoint, under Nolan principles, four professional Board members, (2 each for the PRB and TRB) to succeed those due to stand down in 2011 and 2012 | 1 st and 4 th Q, 2011 |

| | Activity | Description | Completion |
|----|---|--|---------------------------------|
| 8 | Regulatory Compliance: Consumer Protection: Study ABS regulation option | In cooperation with CIPA and ITMA, conduct a feasibility study into the desirability and practicability of the PRB and TRB applying to regulate ABSs | 2 nd Q, 2011 |
| 9 | Communication: Website expansion – phase 2: rebuild and implementation | Implement findings of feasibility study in item 2 above by rebuilding existing website and databases plus staged delivery of the new access capabilities according to the agreed plan | 4 th Q, 2011 onwards |
| 10 | Regulatory Compliance: Budget | Prepare, consult on and submit the budget and proposed practice fees for 2012 | 3 rd Q, 2011 |
| 11 | Regulatory Compliance: Certification | Prepare, consult on and submit the Regulatory Certificate to the LSB | 3 rd Q, 2011 |
| 12 | Regulatory Compliance: Board meetings | Arrange Board meetings as necessary and at least once every two months, and arrange meetings of PRB and TRB sub-committees, at least once a month | 1 st Q, 2011 onwards |
| 13 | Consumer Protection: MOU with OLC | Develop an MOU with the OLC and Legal Ombudsman to cover best practice including information-sharing, hybrid complaints, etc. | 1 st Q, 2011 onwards |
| 14 | Consumer Protection: Training | Facilitate training by CIPA and ITMA, with the assistance of the LSB, on topics such as first-tier complaint handling and monitoring complaint handling | 1 st Q, 2011 onwards |
| 16 | Regulatory Compliance: Consumer Protection: Review of risks | Work with the LSB to review and analyse the risks that can be faced by registrants in a regulated environment | 1 st Q, 2011 onwards |
| 17 | Communication: Regulatory Compliance: Consumer Protection: Liaison meetings | Arrange regular liaison meetings with main stakeholders including LSB, CIPA, ITMA, OLC, PAMIA and other ARs as necessary | 1 st Q, 2011 onwards |
| 18 | Communication: Meetings with registrants | Continue the programme of presentations at regular open meetings with registrants to maintain their awareness of the regulatory regime, update them on developments and to receive their feedback. | 1 st Q, 2011 onwards |

Necessarily, in 2010 we could only work against an indicative budget. However, for 2011 our accompanying budget proposal reflects our experience of 12 months operation as the independent regulatory arm of CIPA and ITMA and our assessment of the financial requirements to deliver this business plan.