

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



ANNUAL REPORT 2011

Annual Report & Financial Summary for the Year Ended
31st December 2011



CHAIRMAN'S INTRODUCTION

2011 marked our second year as regulator to the professions of Trade Mark Attorneys and Patent Attorneys and it is fair to say that we are now an established part of the professional life of both individual registrants and entities. We continue on our path of principle-based regulation and strive to be free of complication and detailed rules.

I am the first to accept that for intellectual property lawyers (whose *raison d'être* might be thought of as detail and distinction) the idea of looking at principle and not detail might be regarded as anathema. That said, the Board desires to continue along these lines in order to make regulation consumer focused.

Much of the year has been taken up with the debate on the issue of Alternative Business Structures (ABS) and whether IPReg will pursue an application to become a licensing authority. The issues were set out in a letter which I sent to all registrants in the summer and the Board spent a great deal of time weighing up the benefits, costs and risks of a decision. What was not in doubt was the fact that a 'draw bridge' would be lifted when the transitional arrangements come to an end, with the certainty that no IP firm could take advantage of the new structure *and* be registered within the 'IP community' – unless IPReg did something. That something was to apply to become a licensing authority.

I am pleased to report that the Board has decided to pursue an application and work

has commenced. The process will be long and involve consultation and resource. No one can say with precision what the benefits will be. All that can be said is that there would be a disadvantage for all time if no action had been taken.

Communication is a vital part of regulatory life and members continue to visit firms both individually and in groups of firms. These visits have been appreciated and do indeed form a very helpful extension to our knowledge of the professions as well as being an opportunity for the professions to hear about the work of the Board.

Continuing with the theme of communication: our IT project, whereby we can improve service to the professions and the public, is in the process of development. Many readers of this report will be aware of the risks and problems attaching to IT changes – so our progress will be cautious. I hope this caution is understood.

In closing, may I thank both Institutes for their help and support during a busy year. The members of the IPReg Board have continued to provide regulatory and professional expertise far beyond what was originally asked of them and for this they have my unqualified thanks.

My final comment: a small and dedicated team (unchanged from last year) in the IPReg offices meets the challenges of an expanding remit with professionalism and goodwill, both in equal abundance – my thanks to them all.

MICHAEL HEAP

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CHIEF EXECUTIVE'S OVERVIEW

The Board

The Board welcomed its fourth lay member in March. The Board recognised that it did not have representation from consumers of intellectual property legal services. We asked registrants to pass on details of the vacancy and through this process David Bream was appointed.

David manages the SETsquared business incubation programme at Southampton University where he guides the development of twenty high growth start-up companies. SETsquared operates at the Universities of Bath, Bristol, Exeter, Southampton and Surrey and supports new businesses in all areas of science and technology ranging from medical genetics to laser physics. David established SETsquared in 2002. More recently David has worked with UK Trade and Investment on projects in California and Italy to promote the UK as a base for high growth technology businesses.

At the same time Penny Nicholls retired as one of our Trade Mark Board members and

was replaced by Linda Harland. Nicholas Fox was re-selected as a Patent Attorney Board member after an open competition and interview. This was necessary to meet the requirements when appointing persons in public office.

Two of our three committees have merged. We now have a 3 person governance committee (one patent and one trade mark member and a lay chair) and a larger committee which deals with education, qualification, conduct and discipline.

During this year we formed an "AR Forum". The members of the forum are the presidents of CIPA and ITMA and the IPReg Chairman and the (lay) Chair of the IPReg Governance Committee plus two non-Council members of the patent and trade mark professions. The purpose of the forum is to allow open discussion.

Our Business Plan for 2012 can be found at the end of this Report.

ANN WRIGHT

Alternative Business Structures

A very significant project for IPReg has been gathering the necessary data and undertaking appropriate consultations to determine whether IPReg should apply to be a licensing authority.

That decision was taken on 19th January 2012.

Michael Heap wrote to entity registrants in August last year but I take the opportunity of the annual report to publish more widely the steps which we took:

- In June 2010 we invited the LSB to speak to the community about ABS. IPReg published a summary in the Journals. The presentation material was put on our website.
- IPReg issued a preliminary questionnaire in 2010 and a further survey was undertaken by the Institutes in early 2011.
- A working party was formed, headed by Keith Hodgkinson of Marks & Clerk (not ABS) and Graham Murnane of Murgitroyd (ABS-like). Michael Heap and I were also part of that group.
- Meetings were held with the LSB, the SRA and the Council of Licensed Conveyancers – CLC

- A paper was produced and published in the CIPA Journal.
- We have spoken about the ABS regime at each of our presentations to individual firms.
- We appointed Sarah Willison, who worked on the SRA application, to produce a detailed scoping report and a short summary report both of which we published.

The timetable for the application has now been published.

You may wish to calculate the practice fees a registered entity would pay if they applied to register with the SRA.

The link can be found here www.sra.org.uk/solicitors/pc-registration-renewal/fees/fee-policy.page. For example the fees for an entity with a turnover of c £22m would be in excess of £50,000.

Education

Our three year Education Plan can also be found at the end of this Report.

The three biggest legal regulators, the Solicitors Regulation Authority (SRA), the Bar Standards Board (BSB) and the Institute of Legal Executives Professional Standards (IPS) have commissioned a review of legal services education and training in the regulated legal sector.

The research questions being asked are:

1. What are the skills, knowledge and experience currently required by the legal services sector?
2. What skills, knowledge, experience will be required by the legal services sector in 2020?
3. What kind of legal education and training (LET) system(s) will deliver the regulatory objectives of the Legal Services Act?
4. What kind of LET system(s) will promote flexibility, social mobility and diversity?
5. What will be required to ensure the responsiveness of the LET system to emerging needs?
6. What scope is there to move towards sector-wide outcomes/activity-based regulation?
7. What need is there (if any) for extension of regulation to currently non-regulated groups?

You can find a link to the website at www.lettr.org.uk. The report is due at the end of 2012.

IPReg will be actively involved in this study as a key consultee and the findings will inform IPReg's own actions.

On other matters:

- We issued a CPD survey. The survey closed at the end of February and we will analyse and report on the results. It is clear however that the delivery of training courses by CIPA and ITMA over an interactive webcam has received considerable support.
- Also during this year we have approved a new foundation course provided by Bournemouth University where a key feature to IPReg was the ability of the students to study remotely.
- We visited Nottingham Trent University and had a very constructive meeting with the Dean, Jane Jarman and Jane Ching.
- We have consulted twice on Litigators' Rights and were very pleased to receive 20 responses including responses from the BSB, the Intellectual Property Lawyers' Association and Mr Justice Colin Burse. We thank those amongst the community who clearly took a great deal of time over their own responses.



Admissions

	2011	2010
Applications for Admission to the Patent Register	96	89
Applications for Admission to the Trade Mark Register	51	26
Applications by Entities	24	4

Complaints

Legal Ombudsman

The Legal Ombudsman made no conduct referrals to IPReg. The Legal Ombudsman reviewed 16 cases of which:

- 11 accepted for resolution
- 10 determined and one pending as at 31st December
- 5 under consideration (whether they can be accepted)

The complaints were resolved as follows

- 1 – not within jurisdiction
- 1 – out of time
- 1 – complainant failed to respond to Ombudsman
- 2 – dismissed by Ombudsman
- 5 – informal resolution

IPReg

The Complaints Review Committee met once in 2011. The complaint was made in the context of overseas litigation. The complaint was dismissed by the CRC.

COMMUNICATIONS

Presentations

- Presentation on Complaints handling held at CIPA in January
- Presentation on IPReg/the roles of the LSB and LeO and the regulatory environment held at offices of Wynne-Jones, Lainé & James in June (including other attorneys local to Cheltenham)
- Presentation on IPReg/the roles of the LSB and LeO and the regulatory environment to Avidity IP (formerly HLBB Shaw) in June
- Presentation on IPReg/the roles of the LSB and LeO and the regulatory environment to Withers & Rogers in June
- Presentation on IPReg/the roles of the LSB and LeO and the regulatory environment to Carpmaels & Ransford in September
- Presentation on IPReg/the roles of the LSB and LeO and the regulatory environment to Mewburn Ellis in October
- Presentation on IPReg/the roles of the LSB and LeO and the regulatory environment to Harrison Goddard Foote in October
- Presentation on IPReg/the roles of the LSB and LeO and the regulatory environment to Barker Brettell in November
- Complaints Handling Event held at LeO (Birmingham) in November

Community – articles and other

- October 2011 interview with Michael Heap and IPReg News in CIPA Journal
- December 2011 “Inside IPReg” article in ITMA Review
- Attending two TIPLO events
- ITMA Conference in March
- CIPA Awards Presentation to Newly-Qualified Attorneys
- Presentation to the Shanghai Intellectual Property Administration held at CIPA in November
- CIPA Induction Event in December

Looking forward

We remain 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.

There will be a series of events focused on our ABS plans.

KATE HASTINGS



FINANCIAL SUMMARY

At the end of our second year of operation it is timely that we provide a written report on our finances.

Our draft management accounts, after reserves and income allocated to projects, show an operating balance of c£45,000. Our monthly management accounts are published with the minutes of each board meeting.

We now have a formal reserve of £50,000. In discussion with CIPA and ITMA, we have determined that over a period of 4 years we should build up an operating reserve of £100,000.

In addition, the funding of high cost projects and other activities has been spread to avoid fluctuations in practice fees. Equally budget items not spent in 2011 such as the appointment and training of our disciplinary board have been brought forward to the 2012 Budget. Included in this Report is a copy of the 2012 Budget with details of the reserved income incorporated and identified.

Significant examples of this approach are:

a) We have appointed Hugo Armitage to project manage the development and construction of our website. The website will include the facility to update records and pay practice fees online. We have provided for the costs over two years. We will not require the services of CIPA and ITMA to

collect the practice fees once the website is operational. This will represent a significant saving to us as we pay in excess of £45,000 annually for this service. This project should, therefore, “pay for itself” very quickly.

b) A provision of £30,000 was made in the 2011 budget for additional resource in the office. This sum has been used to meet the costs of appointing a consultant, Sarah Willison, to assist in the ABS project. At the end of 2011 only £18,000 had been spent and the board determined that the balance should offset her ongoing costs. However, further costs will be met from the additional 2012 practice fees payable by entities. As part of the decision to apply to be licensed, IPReg agreed that the cost of this exercise would be borne exclusively by the primary beneficiaries, namely the entities. We will produce separate accounts for this project to ensure transparency.

The Board has met far less frequently than in 2010. The number of board and committee meetings is also reduced in 2012. We will monitor this and the impact on our costs.

We are intending to review the levels of resource in the office as it is becoming clear that the demand cannot be met by three part time officers particularly in relation to specific projects but also at “pinch points” in the year. The LSB understandably expects IPReg also to have much better statistics regarding the persons and entities which we regulate.

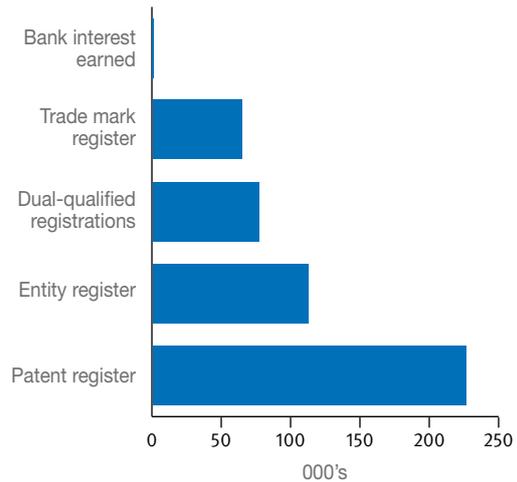
Collecting this information will be part of the ABS consultation process but will cover all registrants. We will also require additional resource to deal with the approval process for ABS applicants.

Finally it might be helpful to review the cost of the Legal Ombudsman and the Legal Services Board.

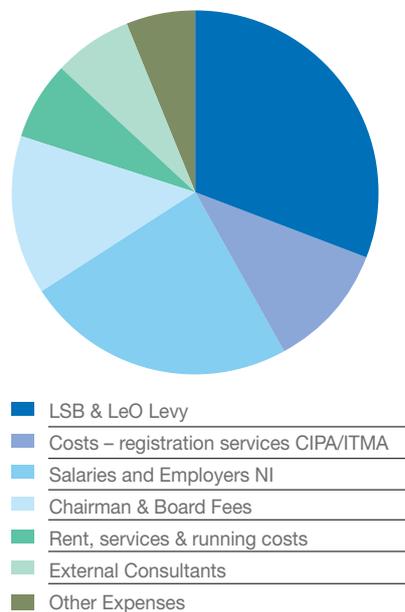
- The running costs of the Legal Ombudsman are met in proportion to the number of complaints and, therefore, the IPReg contribution is small. The IPReg contribution to the annual running costs is c£12,000.
- With regard to the Legal Services Board:
 1. The initial set up cost of £90,000 is being met over 3 years and we will make our last payment in March 2012.
 2. The running costs of the Legal Services Board are met in proportion to the total number of regulated “lawyers”. In our accounts we have provided for a contribution of £119,000 but this was a conservative provision given that we could not know with certainty what the Legal Services Board running costs would be in their second year of operation. However early indications are that there will be a saving.

KAREN DUXBURY

2011 Breakdown of Income



2011 Breakdown of Expenditure & Costs



BUDGET 2012

	Budget LSB Approved	Budget plus Reserves b/f	
	£	£	
Staff Costs			
CEO Salary	50,000	50,000	
Additional Officer Resource	30,000	30,000	
CEO Employers NI Contribution	5,950	5,950	
Additional Officer NI Contribution	3,200	3,200	
Chair	24,000	24,000	
Board Fees	40,600	40,600	
Board Expenses (incl Travel)	20,000	20,000	
Administrator (Temp) Costs	12,000	12,000	
Administrator (Perm) Salary Costs	40,000	40,000	
Administrator's Employer's NI Contribution	3,400	3,400	
Legal Costs and Professional Services	12,000	12,000	
Staff development	1,500	1,500	
Appointment & Training of Discip Board	0	0	
Disciplinary Appointments Reserve b/f	0	10,000	} 10,000
Board Appraisals	2,000	2,000	
Replacement of 4 Board Members (2012 & 2013)	2,500	2,500	
Board Appointments Reserve b/f	0	10,000	} 12,500
Disciplinary Hearings	9,000	9,000	
Disciplinary Hearings Reserve b/f	0	8,200	} 17,200
Administration Costs			
PR/communication	5,000	5,000	
Office Costs (not rent & service charge)	5,000	5,000	
Info mgt & website maintenance	2,000	2,000	
Projects			
IT – Public/Professional access/communications	36,000	36,000	
IT / Website Reserve b/f	0	34,000	} 70,000
Research (Education projects)	6,000	6,000	
Education Reserve b/f	0	1,200	} 7,200
ABS Reserve b/f	0	18,800	
Contingency	10,000	10,000	
Running Costs – Rent & Service Charge	30,000	30,000	
CIPA – Registration Admin Charges	36,000	36,000	
ITMA – Registration Admin Charges	11,000	11,000	
Reserve	0	0	
	397,150	479,350	
LSB Fee	118,000	118,000	
LeO Levy	15,000	15,000	
Budget Expenditure	530,150	612,350	

NB. General Reserve b/f of £25,000 excluded

BUSINESS PLAN FOR 2012

1. Policy Focus and Objectives for 2012

The regulatory objectives which underpin all of IPReg's activities are:

- a) protecting and promoting the public interest;
- b) supporting the constitutional principle of the rule of law;
- c) improving access to justice;
- d) protecting and promoting the interests of consumers;
- e) promoting competition in the provision of legal services;
- f) encouraging an independent, strong, diverse and effective legal profession;
- g) increasing public understanding of the citizen's legal rights and duties;
- h) promoting and maintaining adherence to the professional principles.

Our Work Programme in 2012 will again focus on meeting the regulatory objectives in the following key ways:

- a) **Consumer Protection** – monitoring of first-tier complaints and working with the Legal Ombudsman;
- b) **Communication** – Provision of expanded public communication through the development of our website and enabling online registration by registrants. Subject to a value for

money assessment, management of the registers in house with back office support from CIPA and ITMA;

- c) **Regulatory Compliance** – preparing and submitting the application to become a licensing authority authorised to regulate Alternative Business Structures providing intellectual property services. Undertaking all necessary consultations and communications;
- d) **Education** – Given the significant work required in this area, a separate 3-year plan is being prepared but this general business plan outlines, essentially, some activities relating to the process by which attorneys are admitted which are intended to be implemented this year.

2. Specific Work Programme for 2012

Details of the specific activities in our 2012 work programme are shown overleaf together with their projected completion dates:

Priority is based on a combination of urgency and importance with 1 being the most urgent and important.

Note: annual activities, such as the appointment of board members, submission of the IGR (internal governance review) to the LSB and formal admissions to, and publication of, the statutory registers, are not shown although the plan does highlight areas where the annual activities are intended to be undertaken in a different way in 2012.

Consumer Protection

Activity	Description	Priority
1. First-tier complaints	Commence annual collection of statistics and review	1
2. Conduct Complaints (PRB and TRB)	Develop and publish a protocol on the work of the CRC (sift panel) and to provide further training to the CRC board members Complete the set up of the Joint Disciplinary Panel and provide training	1
3. Service Complaints (Legal Ombudsman)	Following completion of a first year of operation (October 2010/11) undertaking a review of: <ul style="list-style-type: none"> • operations to identify areas where access for/information to the public might be improved; and • where areas of co-operation/information sharing can be enhanced • and also a review of emerging patterns in the types and numbers of complaints being made 	2

Communication

Activity	Description	Priority
1. Website Development	Develop the IPReg website so that it is more accessible for consumers and the general public and allows on-line registration and maintenance of records	2
2. Annual Report	The 2011 Annual report (to be issued in March 2012) to contain a survey of the activities of IPReg over its first two years of operation	2
3. Seminars on complaints handling	Working with CIPA and ITMA to develop (or procure the development of) training courses and written material on complaints handling	3
4. Liaison meetings	Continue regular meetings with main stakeholders including LSB, CIPA, ITMA, LeO, PAMIA and other ARs as necessary	3
5. 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	3

Regulatory Compliance

Activity	Description	Priority
1. ABS	<p>Prepare and submit the application(s) for designation as a licensing authority</p> <p>Undertake all necessary general consultations and communications</p> <p>Undertake a targeted communication campaign addressed to sole practitioners and smaller firms who may wish to remain outside ABS regulation</p> <p>Prepare all documentation required to implement ABS regulation</p>	1
2. Diversity	Develop a frame work/process to collect and review statistics	1
3. Governance	Implement fully a board appraisal process (NB expected to have been commenced in 2011)	2
4. Governance	Review board members annual remuneration	3

Qualification

Activity	Description	Priority
1. Litigation Accreditation	Implement new regulatory framework for rights to litigate/ rights of audience	1
2. Admissions process	<p>Develop and publish guidelines regarding the production of evidence of satisfactory training as part of the application process</p> <p>Consult on the impact of the removal of the right to admission based on an unsupervised (i.e. +4 years) period of practice</p>	2
3. EU Recognition/ European Qualification	Develop and publish a protocol on the admissions procedure	2

EDUCATION PLAN 2012/13

The overarching regulatory objective determining all IPReg education and training objectives is that of:

“encouraging an independent, strong, diverse and effective legal profession”
Section 1 Legal Services Act 2007

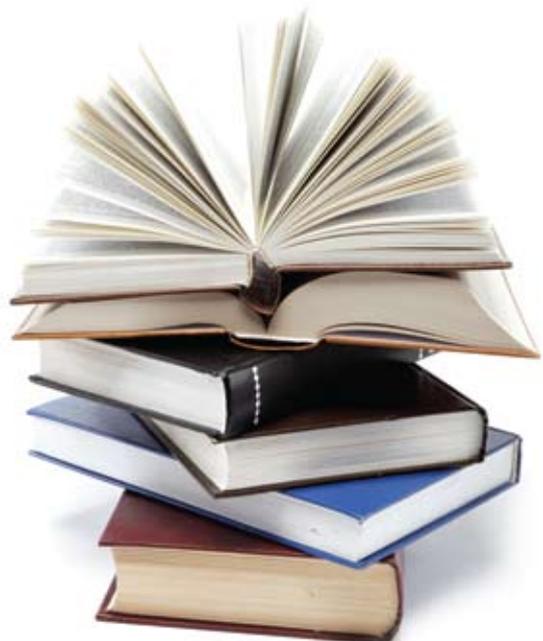
Elaborating upon this objective, the Chairman of the Legal Services Board stated:

“... we also have a specific duty: to assist in the maintenance and development of standards in relation to the education and training of authorised persons ... If the law is to ever more effectively serve the public, then the profession – or rather the entire legal workforce – needs to have the right skills and knowledge. That includes the capability to constantly update both skills and knowledge. In other words, meeting the objective isn’t just about making sure that people jump the right hurdles in their early twenties. It is about achieving a constant interplay between practice and education, with the two spheres in constant dialogue, each driving improvement and innovation in the other to the broader public good.”

David Edmonds, Lord Upjohn Lecture,
19 November 2010

Although strictly IPReg comprises the Patent Regulation Board and the Trade Mark Regulation Board, we have produced a single education plan because our policy is to meet the regulatory objectives in a consistent way across the whole of the profession.

Unlike our annual business plan, we have not allocated priorities to the activities; they all have equal priority.



Activity	Description
<p>1. Audit provision of existing examination arrangements for registration of patent and trade mark attorneys</p>	<p>Audit by an external specialist independent body approved by IPReg (e.g. Ofqual) of the provision by the JEB of the qualifying examinations for patent attorneys</p> <p>Audit by an external specialist independent body, approved by IPReg, of the provision by Queen Mary College and Nottingham Law School of the qualifying examinations for trade mark attorneys</p> <p>Establish a procedure for regular audits as above</p>
<p>2. Audit course providers</p>	<p>Develop and publish a procedure for course applications to be assessed prior to set-up</p> <p>Develop and publish a procedure for existing courses to be regularly audited</p>
<p>3. Facilitate enhanced access into the professions</p>	<p>Participate in appropriate career fairs and similar promotional events (will require commissioning of suitable materials, staff training, etc) to broaden awareness of a career as an IP attorney</p> <p>Encourage participation by CIPA and ITMA in such events</p> <p>Identify possible areas for, and the potential benefits of, harmonising aspects of the education of patent and trade mark students to facilitate consistency (and economies of scale)</p> <p>Establish data on diversity profiles of students entering into the professions</p>
<p>4. Facilitate minimum standards for in-service IP training</p>	<p>Consult on the establishment and implementation of minimum standards for in service training including guidelines, checklists and model contracts (applicable to all parties: trainee, training body and trainer/manager)</p> <p>Develop a process for regular IPReg sampling of in-service training</p> <p>Commission or procure a basic course in organisational coaching and mentoring for in house trainers</p> <p>Consult on the removal of qualification via 4 years unsupervised practice</p>
<p>5. Training in Code of Conduct issues</p>	<p>Facilitate training courses on the IPReg Code tailored for entrants and also for established practitioners including those intending to make the transition from corporate to private practice</p>
<p>6. Professional Development</p>	<p>Issue a CPD questionnaire to identify areas for development</p> <p>Amend Guidelines and Rules as, and if, appropriate</p>



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