

The Patent Regulation Board and the Trade Mark Regulation Board

Application for Approval of Practice Fees for 2012

Level of Practice Fees for 2012

This application is in two parts; namely application for approval to:

- **maintain the practice fees** for individual registrant at the 2011 levels; and
- increase, for 2012, the practice fees for entities by **50%** to fund the application intended to be made by the Patent Regulation Board to be designated as a licensing authority.

Two versions of the proposed 2012 fees matrix are attached with the proposed figures in blue. The one area where an increase is proposed is highlighted. We can approach the 50% uplift as a separate line or by increasing each element of the overall entity fee the LSB directs or prefers.

Allocation of Income in 2011 and 2012

In 2011 all income has been applied and in 2012 all income will be applied solely for the permitted purposes. The budgets/comparisons, which are provided below, evidence that the expenditure principally comprises:

- the levy to the LSB and for LeO
- the salaries of the three part time members of staff
- the remuneration and expenses of the Chairman and Board members
- accommodation and other office costs

The budget contains a very modest allocation for IPReg “events”. This consists of presentations, principally by the Chairman, to registrants about IPReg.

The 2010 expenditure, the 2011 budget (£ 532,125) and the proposed 2012 budget (£530,150) in pie chart form are attached.

Shared Services

In 2012 IPReg will continue to use the services of CIPA and ITMA for administration of its individual registers. The 2010 costs were reduced in 2011 by approximately

30% (from £20 per registrant to £15) and a further reduction has been proposed by the Institutes.

The cost of this service in 2010 was c£60,000

The cost of the services in 2011 is expected to be c £46,000

We expect to terminate this service at the end of 2012 when our website/on line project goes live and the registers are maintained via our own website.

It can be noted, therefore, that the only payment to CIPA and ITMA is in relation to the administration of the registers and is in return for a service. No funds are collected by IPReg or paid to CIPA and ITMA in relation to any of the activities of the Institutes.

A sample practice fees invoice is attached from which it can be seen that there is clear separation of the practice fees from the membership subscriptions.

Sources of Income

All income is derived from the practice fees charged by IPReg to registered attorneys and entities. Since January 2010 IPReg has receive no financial assistance from CIPA and ITMA. IPReg is financially independent.

Concerns of the LSB in 2010 – Areas of Change and Improvement

1 Consultation Process

In the spring, we issued our first annual report to all registrants (**copy attached**). This contained full details of our expenditure for 2010. The consultation process for this year is described below.

2 Approval Processes - protocols

The “AR Forum” met on 3rd August to consider the business plan and budget. The AR Form consists of the two presidents of the Institutes and two non council members of the profession plus the Chairman of IPReg and the chairman of the IPReg Governance Committee; the purpose of the forum being, as far as possible, to separate the AR function from the representational role of the Institutes. The members of the AR Forum supported the proposals and the proposed practice fees. The paperwork was then submitted to the two Councils who “approved” (supported) the budgets/practice fees.

3 Disincentive to entrants to multi disciplinary practices

The fees matrix is structured to ensure that UK registered attorneys and attorneys who are solely European registered attorneys (operating in the UK) and

other professionals (lawyers) regulated by us effectively pay the same practice fees to IPReg.

For example:

UK RPA/RTA – individual fee of £170 plus the entity pays £55 for each UK attorney in its employ – total £225

EPA/EPA – entity pays fees of £225 of each other lawyer in its employ.

Is there an adverse impact on particular sectors of the Community?

Prior to 1st January 2010 IPReg consulted extensively on the form/matrix for the practice fees. The increase in the fees for 2011 was applied across the entire community.

IPReg initially received feedback that the practice fees matrix weighted sole practitioners unfairly and that this category of registrants presented no particular regulatory risk. It is true that there are no concerns regarding conduct and complaints etc but this category of registrants used the support and guidance of the IPReg officers more than any other category although this pattern is changing as familiarity with the IPReg regime increases. IPReg are now beginning to see more queries regarding ABS structure.

IPReg remains satisfied that the matrix is robust and fair and, particularly, now understood. After only two years any fundamental review would appear to be unwarranted especially in view of the proposed retention of the 2011 levels for individuals.

Individual Fees – Budget Information

IPReg propose no change in the practice fees for individuals.

The IPReg Business Plan for 2012 and the following budget information are submitted in relation to individual practice fees:

- Comparison of the 2010 budget against expenditure. At the end of 2010 IPReg had a £20,000 surplus after adjustments at audit¹. This surplus has been invested to create a reserve fund.
- 2011 Budget of £532,125.
- Comparison of the 2011 Budget against expenditure to June. We anticipate a further surplus of c £45,000 which will also be invested as a reserve.
- Proposed 2012 Budget of £530,150.

Individual Fees – Consultation Process

All the above financial documents have been posted on our website; the last two being expressly part of our recent consultation on the 2012 practice fees.

The consultation process as follows:

- We published our budget/practice fees consultation timeline to the AR Forum and on our website in April (copy attached); the period for consultation being the whole of August and up to 12th September.
- The business plan and draft budget was drawn up by the IPReg officers and reviewed by the IPReg Governance Committee in May (plan) and June (budget).
- The AR Forum was sent the draft business plan in May.
- The 2012 business plan and proposed budget was approved by the Patent Regulation Board and the Trade Mark Regulation Board in July
- We immediately undertook a pre-consultation with members of our AR Forum at a meeting on 3rd August. The members of the AR Forum then forwarded the paperwork to their relevant finance committees.

¹ IPReg paid in early 2010 some costs it incurred in late 2009 and which were, therefore, strictly the liability of CIPA and ITMA but IPReg waived reimbursement.

- All the budget and practice fees information was immediately published on our website.
- CIPA and ITMA were then formally consulted as part of the wider consultation of the registrants.

To the extent necessary, the two Institutes formally approved the budgets and confirmed to IPReg.

We had no comments from the registrants regarding the budget.

Projects

Our major infrastructure project in 2012 will be to upgrade significantly our website; a key feature of which will be to allow registrants to maintain their own records and pay their practice fees online. We have provided for these costs in two tranches over 2011 and 2012.

In the medium term this will result in a saving because the external management of the registers by CIPA and ITMA will be unnecessary.

The 2011 Budget provided for a sum of £30,000 for additional resource within the office. This money is being invested in a scoping report for the licensing application. This report is to be produced by an external consultant.

We are currently finalising a separate education plan.

We believe that the 2012 Business Plan can be implemented on the current levels of income and have determined, subject to approval by the LSB, to keep the practice fees for individuals at the 2011 levels.

Entities

Entity Fees - Budget Information

As indicated above it is proposed that the practice fees for entities be increased by 50% for 2012 and the possibility of 2013 to meet the costs of the IPReg licensing application.

The following documents are submitted in relation to the practice fees for entities:

- letter from Michael Heap dated 8th August 2011
- Financial Framework

Entity Fees – Consultation Process

The letter and the draft financial framework were sent by IPReg to all 170 plus registered entities. The letter describes the work undertaken on this project to date and explains why IPReg consider that the funding of the application should be from entity registrants alone. In summary, a large number of our individual registrants are “in house” and their employers will not benefit from the ABS legislation.

The result of the financial analysis is that IPReg needs to raise a specific “levy” of 50% of the entity fee which would otherwise be due; either for 2012 or 2011 and 2012.

At the time of submission of the application CIPA have confirmed their willingness to provide £15,000 as stipulated in the framework. ITMA has indicated that it considers that all funding should come from entities and has other commitments in 2012. It has offered a loan.

Discussions are ongoing. The outcome may be that, in 2013, IPReg will need to keep the entity fees at the 2012 level.

Responses to the consultation have been very limited. We have received 3 in all; one in support and two from sole practitioners (trading through companies) who considered that the advantages of ABS structures lie with larger firms and the practice fee increase disproportionate for them.

We are satisfied, therefore, that amongst the registered entities as a whole there is general support for the licensing application and the costs which are to be incurred.

Is Any Change Necessary to our Practice Regulations?

The Patent Attorney and Trade Mark Qualification and Registration Regulations provide

“IPReg shall determine in consultation with CIPA and ITMA and with the approval of the Legal Services Board such fees as may be payable in connection with the initial and continued registration of individuals and shall publish a list of these at regular intervals”

The Patent Attorney and Trade Mark Attorney Registered Bodies Regulations simply refer to

“the fee or fees for the application as determined from time to time by IPReg”

Without reference to approval of or in consultation with the Institutes or the LSB although in practice it is regarded as a pre-requisite for both categories of practicing fees.

The 2011 Practice Fees Regulations themselves permit amendment and substitution by further regulation.

Once we have received the approval of the LSB an amendment will be made to incorporate the revised entity fees for 2012

Approval is sought for an increase in the practice fees; strictly it is not for the imposition of a levy. Whilst they increase could be regarded as a levy in view of its proposed temporary nature, the increase will be applied across the entity registrants whether they are currently “ABS like” or desire to become an ABS.

Conclusion

Our submission to the LSB for approval of the 2012 fees structure reflects our continuing strategic view to maintain a “lean” approach to the provision of a well focused regulatory capability. We have been encouraged by the response of the registrants and entities to our proposals. There is no surprise in registrants being content with no increase in subscriptions. There is much to be content about with two adverse comments out of a possible 176 in relation to the proposed increase in the entity fees. While the increase may seem high in percentage terms, it represents £500 pa for two years on average over the entity community. The increase is ring fenced to the ABS project and it is plain that the entities see the merits of the proposals and the budget arrangements.

We respectfully request approval of the above proposals.

Ann Wright - Chief Executive

Michael Heap - Chairman

20th October 2011

Annexed Documents

Fees

- 1 2012 Fees Matrix showing single line up
- 2 2012 Fees Matrix showing uplift to base fee and “plus” fees

Allocation of Income

- 3 Pie chart showing allocation of 2010 expenditure
- 4 Pie chart showing the allocation of the 2011 budget
- 5 Pie chart showing the allocation of the proposed 2012 budget

Shared Services

- 6 Sample invoice

Concerns of the LSB

- 7 IPReg Annual Report

Individual Fees

- 8 IPReg 2012 Business Plan
- 9 Comparison of 2010 budget against expenditure
- 10 2011 budget
- 11 Comparison of 2011 budget against expenditure for 6 months to June
- 12 2012 budget

Consultation

- 13 Published budget timeline

Entities

- 14 Letter from Michael Heap
- 15 Financial Framework