

Legal Services Board – Consultation on the Diversity Guidance

We welcome the opportunity to respond to the LSB consultation on its new Diversity Guidance.

Background

The patent and trade mark professions are small. There are just under 3,000 patent and trade mark attorneys.

Each year about 80-90 trainee patent attorneys and 40- 50 trainee trade mark attorneys are admitted to the profession.

These figures are far smaller than the level of recruitment amongst the larger legal professions.

Response to Consultation

The move towards an outcomes-focused approach is welcomed and is more in keeping with the current regulatory environment. It is appropriate to review and move away from the prescriptive approach of the 2011 Diversity Guidance which focused on data collection and publication.

We also welcome the holistic approach the guidance represents (which IPReg has been promoting for some time) and, within this, the acknowledgement that regulators can, and should, be facilitators and awareness raisers, whilst recognising they cannot, and should not, be the (sole) guardian of its regulated community's diversity profile.

We have recently published a second review of recruitment and diversity in the patent and trade mark professions.

<http://ipreg.org.uk/wp-content/files/2013/04/Recruitment-and-Diversity-in-the-Patent-and-Trade-Mark-Professions.pdf>

Patent Attorneys

The Patent Attorney qualification necessarily requires a STEM degree. This requires STEM related A levels.

As our report said:

“It is well known that science and engineering graduates are disproportionately male. The latest figures from the Higher Education Statistics Agency state that 83% of engineering students are male as are 57.6% of physical sciences students”.

The diversity profile of the patent profession has, traditionally, been determined by factors occurring long before the qualification route and admission process of a frontline regulator.

That having been said, our report identified that:

“In the case of trainee patent attorneys recruited between 2010 and 2012, as identified in the CIPA membership list, 130 (60.5%) were male and 85 (39.5%) were female”.

Trade Mark Attorneys

Trade Mark trainees, strictly, do not require any degree although most do have a degree and many have a law degree.

In terms of gender balance our report identified that:

“Corresponding numbers for trainee trade mark attorneys in the ITMA membership list were 15 (25.4%) male and 44 (74.6%) female”.

IPReg’s approach to date:

Within the limitations of two small specialist professions, we have:

- Published data and two full reports (2013 and 2016)
- Established a Reserve of £10,000 to fund diversity initiatives.

We believe that, in fact, the representative bodies can have more influence in this area than the frontline regulators. With this in mind, we draw the LSB’s attention to IP Inclusive, a collaborative working project created by the Chartered Institute of Patent Attorneys and the Chartered Institute of Trade Mark Attorneys.

IP Inclusive

A round-table meeting on Diversity in IP, hosted (in 2015) by the Chartered Institute of Patent Attorneys (CIPA), led to the creation of a pan-professional diversity task force, IP Inclusive. This task force currently has nearly 40 members from organisations including CIPA, the Chartered Institute of Trade Mark Attorneys (CITMA), the IP Federation, the UK association of the International Federation of Intellectual Property Attorneys (FICPI-UK), the UK Intellectual Property Office (UK IPO) and Managing IP magazine.

The IP Inclusive initiative operates under four work streams: awareness-raising upstream of the IP professions; best practice charter and accreditation schemes within the professions; diversity training within the professions; and support within the professions.

Conclusion

We welcome the proposed focus on delivery of positive, specified, outcomes and the scope of the guidance being broader than its predecessor. In addition, we value its recognition that it is not the unilateral duty of the frontline regulator, but collaborative working, which is best placed to help engineer change.

Thank you for the opportunity of allowing IPReg to contribute to this consultation. We hope these views are of assistance to you. Please feel free to get in touch if that might be helpful.

Ann Wright, Chief Executive (30 November 2016)