



IPReg Second Consultation on Replacement of the CIPA Higher Courts Qualification Regulations and the ITMA Trade Mark Litigator and Trade Mark Advocate Certificate Regulations

Introduction

The Federation represents IP intensive companies in the United Kingdom - a list of members is attached. Our member companies range from large multinational companies to smaller SMEs, and are extensively involved with IP in Europe and internationally. Not only do our companies own considerable numbers of IP rights, both in Europe and elsewhere, but they are affected by the activities and IP rights of competitors. They may be either plaintiffs or defendants in IP related court actions, here and elsewhere.

The consultation

IPReg received 20 responses to its initial [consultation](#) to replace the CIPA Higher Courts Qualification Regulations and the ITMA Trade Mark Litigator and Trade Mark Advocate Certificate Regulations with a revised qualification regime for patent attorney and trade mark attorney litigators.

It has now opened a second consultation on the draft regulations and consequential alterations to the Code of Practice and other documents. The second [consultation](#) is open until 19 March 2012.

IP Federation response

We responded positively to all the proposals set out in the first round of consultation (see our Policy Paper [16/11](#)), as did the vast majority of respondents. We are therefore very concerned by the *volte-face* set out in the second round of consultation, which will actually reduce the rights of audience for patent and trade mark attorneys, particularly in the PCC.

The cost of IP litigation in the UK is prohibitively expensive for small companies and individuals. We agree with HH Judge Birss's comment that allowing IP attorneys to appear before him in the PCC is a positive development for increasing access to justice: it expands the options for representation so that cases which might otherwise be dropped, or forced to a settlement through lack of funds, can be properly decided. This is particularly important for SMEs, who will drive economic growth and recovery.

We therefore urge IPReg to reconsider its second round of proposals. In the absence of any evidence to justify the removal of automatic rights of audience in the PCC, the existing rights of audience and rights to conduct litigation granted to patent and trade mark attorneys should be perpetuated.

IP Federation
16 March 2012

IP Federation members 2012

The IP Federation represents the views of UK industry in both IPR policy and practice matters within the EU, the UK and internationally. Its membership comprises the innovative and influential companies listed below. Its Council also includes representatives of the CBI, and its meetings are attended by IP specialists from three leading law firms. It is listed on the joint Transparency Register of the European Parliament and the Commission with identity No. 83549331760-12.

AGCO Ltd
ARM Ltd
AstraZeneca plc
Babcock International Ltd
BAE Systems plc
BP p.l.c.
British Telecommunications plc
British-American Tobacco Co Ltd
BTG plc
Caterpillar U.K. Ltd
Delphi Corp.
Dyson Technology Ltd
Eli Lilly & Co Ltd
ExxonMobil Chemical Europe Inc
Ford of Europe
Fujitsu Services Ltd
GE Healthcare
GKN plc
GlaxoSmithKline plc
Hewlett-Packard Ltd
IBM UK Ltd
Infineum UK Ltd
Merck Sharp & Dohme Ltd
Microsoft Limited
Nokia UK Ltd
Nucletron Ltd
Pfizer Ltd
Philips Electronics UK Ltd
Pilkington Group Ltd
Procter & Gamble Ltd
Rolls-Royce plc
Shell International Ltd
Smith & Nephew
Syngenta Ltd
The Linde Group
UCB Pharma plc
Unilever plc
Vectura Limited