

ITMA Education and Training Reform

Summary of Progress

Since our last update to you in the November 2008 Review we have made significant progress. We have reached outline agreement with both Queen Mary and Nottingham Law Schools as to what the courses might look like, put together a course outline and received approval from ITMA Council as to the fundamental principles which must be adhered to for the Reform to take place.

Key points for members to note are:

1. the compulsory nature of the new qualification system;
2. the cut off date (see below) to be able to qualify under the existing qualification system;
3. the increase in cost for qualification under the new system.

Course Outline

The course will comprise 3 elements: Law, Practice, and Experience.

We have concluded that initially the Law Course would best be run over a period of 10 months. There will probably be a two week intensive course at the start followed by two day-long sessions (on consecutive days) every month for 10 months. Students will be expected to commit at least two days of individual study each month as well. The current start date for the first Law Course is January 2010.

The aim is to review this format after a year to see if it makes sense to move to a three month intensive format as well as or instead of the 10 month format. A draft syllabus for the Law Course can be found on the ITMA website.

For the Practice Course we felt that a modular format would work best with flexibility in timing to allow students to lengthen or compress the training to fit with their needs. The commitment is looking like being about thirteen teaching modules of two consecutive days each with about two days of individual study after each module. We are aiming for Friday and Saturday teaching to minimise time out of the office. The course divides into two parts, Core Legal Skills and Advanced IP Skills, more detail is given below on the proposed course composition. Teaching will be intensive, probably in groups with a maximum of 8 students to one tutor. The current start date for the first Practice Course is April 2010.

The Experience element will be administered by ITMA (although it is possible that the Intellectual Property Regulation Board (IPREG) will take over this role at some stage). It is likely to be necessary to gain experience in most of the tasks that a trade mark attorney commonly performs and to complete two or three years of fulltime experience under the supervision of an experienced IP practitioner. This element will most likely be assessed using a training diary and these will be inspected to ensure the requirements have been met.

We will be working with both Queen Mary and Nottingham Law School to deliver the first two elements and see great benefits in using teaching professionals. The courses will be set, taught and examined by the same body which should make the teaching and examining more consistent and "joined up". Both institutions will use an independent examiner to moderate and audit the assessment process to ensure it is fair. Queen Mary will deliver the exam results for the Law Course

within eight weeks of the examination and a retake will be available shortly afterwards.

Both academic institutions have a proven track record in delivering education and training to both IP practitioners and the legal profession and we believe we are handing over responsibility for this crucial role to safe and trustworthy hands.

Fundamental Principles

To take the process forward we needed to have a framework approved by Council. It was too early at the Council meeting to agree all the details and so we set out the principles which we felt reflected the results of the consultation and other feedback. These principles (set out below) were put to Council by the Education & Training Committee in November and approved.

- The overall standard of knowledge of trade mark law must not be lowered.
- There should be flexibility in the qualification methods so as to be as inclusive as possible.
- The skills and knowledge taught and tested in the qualification process should be broadened to cover broader legal skills and soft skills.
- The outline course content which has received general approval should be the basis for the syllabi.
- The course is to be compulsory as long as flexibility of delivery is built in.
- ITMA Practitioners will be involved in the teaching of both the Law and Practice elements.
- ITMA would have input into the syllabi of the two courses.
- A period of 2 years' work experience is the absolute minimum before qualification should be granted.
- There should be appropriate exemptions for other professions and students with appropriate qualifications.
- There should be appropriate transition provisions to enable students to transfer to the new course if they so wish.
- The existing qualification system should remain for a suitable period of time to give students adequate opportunity to qualify.
- Examination would remain the primary assessment method and in particular for the Law Course and key modules of the Practice Course (eg trade mark searching, advanced UK and CTM trade mark practice).

We have also had enthusiastic support from the Intellectual Property Office and informal encouragement from IPREG that these proposals are on course.

Compulsion - Consumer Protection and Industry Consistency

From the consultation exercise and other research we concluded that a key part of the Reform was the element of compulsion. This is for two critical reasons – consumer protection and consistency. By making all student members undergo the same training and by extending that training from just lectures on law to include softer skills such as advocacy and case management, the client base of the profession should have a much better idea of the standard to expect in terms of service and ability.

We believe there is also another benefit within our profession. At the moment all companies and firms train their students using a wide variety of methods and levels of commitment. This results in quite different skill levels and can mean that a new recruit to your firm can be weak in critical areas of practice through no fault of their own; simply because the previous employer is specialized in certain areas of work. By effectively outsourcing a large proportion of the training to a

centralized training program those lacunae in attorneys' expertise should be much reduced.

Costs and Commitment

We have made some preliminary costings for the process of Education and Training under the new system. We have sought to keep costs as reasonable as possible and our research shows they compare extremely favourably with other professions¹.

The costs for the new system are higher than at present however we feel that is balanced out and thoroughly justified by the fact that much more is being delivered. We believe it will give employers and students alike a much better, quicker and more effective training.

For the employers there should be a much reduced training burden and students should be delivering billable/useful work more quickly. This was perceived to be of particular help to smaller firms where it would free up the trainer to concentrate on client work.

For the students the path to qualification should be much quicker, more certain and they should end up with more knowledge and more skills. By achieving qualification sooner their salaries would rise more quickly which should help to offset any costs incurred whilst training.

We are aiming to increase an ITMA trade mark attorney's skill levels above that of our competitors who practice in the IP arena, whether in the UK or in Europe. One of the drivers for the reform was the recent feedback from the Intellectual Property Office that they believed our skill levels had been overtaken. That means providing for more teaching and that inevitably means more direct cost.

The new system (and in particular the Practice training) is quite different to the system in place. This makes comparisons difficult but we have sought to do so in the table below.

New system

	Number of hours teaching and study	Estimated costs
Law Course	150 + 150 = 300	£ 5500
Practice Course	180 + 120 = 300	£10500
Experience requirement	N/A	
Total	600	£16,000

Old system

	Number of hours teaching and study	Costs
Intermediate exams	75	£4000
Final Exams	145 +100	£6400
Total	320	£10,400

[The old system assumes a student attends the ITMA intermediate courses, the QM Advanced Level course and JDD revision courses. It does not take account of any retakes, internal tutorials, additional external educational training courses that students may also attend. The number of study hours is a 'best guess' estimate in each case.]

Next steps

There is much work still to do finalizing the syllabi, helping the academic institutions get the courses approved, deciding the format of the courses and working with UKIPO, Joint Examination Board, CIPA and IPREG to ensure a smooth transition. The main issues that we still need to decide for the new system are:

- Non-Graduate entry – our aim is for there to be discretion to allow appropriately experienced persons to enter the profession without a degree.
- What exemptions would be available to students, barristers, solicitors, patent attorneys, foreign qualified lawyers.
- Transitional provisions and exemptions for students who want to move from the old system to the new system.
- Qualification of the “supervising person” – can eg a suitably experienced solicitor, barrister or patent attorney fulfill this role.
- If it is possible for a Student Loans (or similar) arrangement to be put in place for those members who are not employed or whose firms do not support them financially.
- The length of the period of experience needed for qualification;
- Whether we try and run an intensive Law Course (3 months study) in addition to the extended Law Course outlined above.
- The requirements for the training diary that will need to be completed for the Experience requirement.

Practice Course Outline

	Assessment Method(s)	No of days teaching	Total
Core Legal Skills			
Client skills	Assessment	No formal teaching – pervasive	
Professional ethics/conduct	Examination	0.5	
Tribunal & litigation skills	Assessment	2	
Case management & preparation	Examination	1.5	
Evidence	Examination	2	
Negotiation and	Assessment	2	

agreement drafting			
Basic advocacy (written & oral)	Pass/fail	2	
Letter writing & advice skills	Assessment	1	11
Advanced IP skills			
UK/OHIM procedures/ key practice points	Examination	4	
Proper use of TMs	Examination	0.5	
Filing strategies	Assessment	1.5	
IP property/title issues	Examination	1	
IP taxation	Examination	1	
Relevant business law & practice	Examination	2	
Comparative international practice (limited to eg US, Japan, Germany)	Examination	2	
Trade mark searching/comparison	Examination	2	14
			25

Existing Students

All current Student Members of ITMA will have the option to stay in the existing system or to move onto the new system at any stage. There will be some exemptions for students who decide to move into the new system but these are likely to be limited especially for the Practice Course which mainly covers new content.

We will look in more detail at the numbers involved but at this stage our intention is to run the existing Foundation Papers in 2009 and 2010 and the Final Papers until at least 2011. The intention being to give students currently in the existing system (or obtaining qualifications that give them exemptions from it) the chance to qualify under the existing system.

Based on the current start dates of 2010 it is likely to be quicker for existing students who have passed the Foundation Papers to stay in the existing system. Students who are yet to take any Foundation Papers are likely to benefit most from a switch to the new system.

Important Notice

To fulfil the compulsory nature of the new system a cut off date will be imposed. This date is likely to be 1 May 2009. To be able to qualify under the existing system it will be necessary to be a Student Member of ITMA before this date. All student members who sign up after this date will only be able to qualify under the new system. A notice to this effect is on

the ITMA website and we are notifying all academic institutions to which we offer exemptions so that their students can be informed.

We will be updating you over the next few months as to our progress and if any members have an interest in helping the Education & Training Committee with this vital project we would welcome volunteers to be co-opted onto the Committee.

Education & Training Committee

¹ It is informally estimated that to qualify:

- As a solicitor would cost a student with a law degree about £10,000 in course fees together with living costs for a year. An employer would pay about a further £1400 in compulsory courses as part of a training contract. For students without a law degree a further course is needed at a cost of about £6000 in fees plus living costs.
- As a barrister would cost about £14,000 in fees at bar school together with living costs for a year. There are further courses costing about £1500
- As an ACA accountant would cost about £11,000 in course and exam fees, £17,000 for initial training and six months paid study leave. These costs are spread over three years.