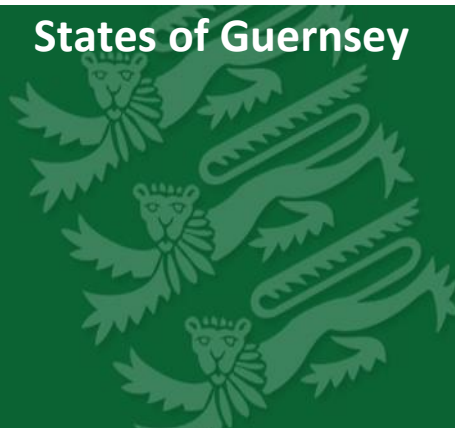


Consultation Paper

Trade Mark Agents Consultation

Date: 24 March 2016



Purpose and type of consultation

The purpose of this consultation is to seek input from interested parties on the proposed terms of a Register of Agents, initially for Trade Mark Agents and then for Intellectual Property Agents.

Closing date: 31 May 2016

Please see page 9 “**How to respond**” section for full details of how to respond to this consultation.

Contacts

Please send your comments to:

Alan Bougourd – Registrar
Guernsey Intellectual Property Office
PO Box 451, Fountain Street, St Peter Port, GY1 3GX

How to contact us

Email: alan.bougourd@guernseyregistry.com

Circulation

This consultation paper is an open/public consultation. This consultation paper is available on <http://www.guernseyregistry.com/ipo>. In addition, it has been sent to the following individuals / organisations:

Alderney representatives

Sark representatives

Individuals (including agents) currently filing with the intellectual property Office

Intellectual Property Commercial Group Members

Summary

In October 2015 the Commerce and Employment Department (the “**Department**”) issued a consultation paper seeking the views of interested parties on several issues identified to improve the existing intellectual property regime (the “**Consultation**”).

One of the issues consulted on was the introduction of Registers of Agents for Trade Marks and Registered Designs Rights. Respondents were in favour of the proposal to introduce these Registers. It was also suggested that a new title of Intellectual Property Agent be introduced to apply across all registerable Bailiwick intellectual property products.

The Department has continued with that work stream and draft Regulations for the introduction of a Register of Trade Mark Agents have been prepared.

This consultation paper seeks the views of interested parties on the draft Regulations, which are annexed to this consultation paper. The questions for consultation are detailed below. You are invited to respond to all or any of the questions as you consider appropriate.

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GLOSSARY

IPO	Guernsey Intellectual Property Office
IP	Intellectual Property
IP Agents	Intellectual Property Agents

REGISTER OF TRADE MARK AGENTS

1. BACKGROUND

Registers of Agents currently exist for Patents and Image Rights. The current practice of the IPO in relation to all other IP products is to accept applications made by persons authorised by the proprietor.

It was a conclusion of the Consultation that the Department would undertake to simplify the current system, and to introduce a single register of Agents to apply across all registerable IP products.

Issues around terminology of Patent Agents and Attorneys were identified as part of the Consultation. Introducing a single register of Intellectual Property Agents will also simplify the terminology used for agents and avoid confusion internationally.

Work required to implement of a single Register of Intellectual Property Agents is being progressed in a number of stages:

- i) In the first instance, Regulations have been drafted for the introduction of a Register of Trade Mark Agents, which are the subject of this consultation. The Regulations include restrictions on residence and qualifications. Similar Regulations already exist for Image Rights Agents and Patent Agents.
- ii) It is intended that, once implemented, the Register of Intellectual Property Agents held by the Registrar will detail all registered Intellectual Property Agents. Appropriate designations will be included next to the Agent's name confirming which products they are able to file applications in, according to their qualifications and/or level of IP experience.

Further Regulations will be required to enact the single Register of Intellectual Property Agents. The draft Trade Mark Agent Regulations, and feedback provided as a result of this consultation, will be used to draft the provisions required to introduce a single Register of Intellectual Property Agents with regards Trade Marks applications. Similarly, the existing Regulations for Image Rights Agents and Patent Agents will be used to incorporate provisions for Intellectual Property Agents able to file applications for those products.

- iii) Amending Ordinances will be required in relation to each of the IP products, to replace existing Registers of Agents and introduce a Register of Intellectual Property Agents. The Ordinances will deal with both restriction on residency and qualifications of Agents.

2 QUESTIONS FOR CONSULTATION

2.1 Fees

As well as simplifying the terminology and qualification provisions for Agents, the Registry also intend to simplify the fees charged for registered Agents.

Annexed to this consultation paper is a proposed schedule of fees for Agents. Feedback is requested on the proposed fees.

2.2 Qualifications for agents

The draft Regulations incorporate provisions for the qualifications required for Agents to be able to file Trade Marks applications.

It should be noted that, currently only individuals may be Image Rights Agents, but both individuals and corporates may be Patent Agents. In introducing the Register of Intellectual Property Agents the intention is for all agents to be restricted to individuals, since it will be easier to administer and for the Registrar to take action against individuals if required rather than against corporates. Feedback is welcomed from respondents regarding this proposal.

The Department is conscious that it may be necessary for the Registrar to take into account the level of IP experience of the Agent, over and above the qualifications obtained. For example, an individual who is a corporate service provider may not necessarily have the required level of experience to file Image Rights applications and to hold themselves out as an Image Rights Agent. This will be taken into account in the necessary drafting required for the Register of Intellectual Property Agents.

Questions for consultation: Register of Trade Marks Agents

1. Do you agree with the proposed fee schedule for Agents? Please provide details if you disagree.
2. Do you agree with the required qualifications for Trade Mark Agent, as provided for in the draft Trade Marks Agents Regulations? Please provide reasons for your answer, or alternative suggestions .
3. Do you agree with the proposal for similar provisions regarding Agent qualifications to be made in relation to Agents able to file Design Right Registration applications? Please provide reasons for your answer.
4. Please provide any additional comments or suggestions you consider necessary, both in relation to the draft Trade Marks Agents Regulations and the terms of the proposed Register of Intellectual Property Agents.

Annexures

Annex 1 – Draft Trade Marks Regulations

Annex 2 – Proposed schedule of fees for Intellectual Property Agents

Next steps

Responses will be collated and a summary made public.

Responses will be considered by the Department to inform policy decisions on the proposed changes outlined in this consultation document.

How to respond:

Please send comments, preferably by email, to:

Email: alan.bougourd@guernseyregistry.com

Alan Bougourd – Registrar Guernsey Intellectual Property Office Guernsey Registry, PO Box 451, Fountain Street, St Peter Port, GY1 3GX	Email: alan.bougourd@guernseyregistry.com
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THE CLOSING DATE FOR RESPONSES IS 31st MAY 2016.