

INTELLECTUAL PROPERTY LAWYERS' ASSOCIATION#

Submission on Patent Rules

The following submission is made on behalf of the Intellectual Property Lawyers' Association (IPLA).

The IPLA is responding to the consultation which was launched on 12 March 2007 which seeks views on a substantial modernisation and consolidation of the Patent Rules. We appreciate that the deadline for responses was Tuesday, 5 June 2007 but unfortunately we were not in a position to make a submission by that date. In general we support the consolidation and clarification of the Rules, particularly as they provide to contentious proceedings in the UK IPO. We have seen the submission of the Trade Marks Patents & Designs Federation (TMPDF) and in general support the comments made by the TMPDF. In particular, we support the comment about Rule 74 in relation to the overriding objective that there should be clarification of the principles in paragraph (2) of the Rule relate essentially to procedure rather than to substantive law.

We also support their comment on Rule 77 in relation to notification of parties. We would add that we do not consider it appropriate that where a person is notified and that person fails to file a counter-statement that the comptroller should treat that person as supporting the claimant's case (proposed Rule 77(9)). We consider that the position should be neutral.

In relation to the overriding objective we are concerned that it should not apply to prejudice one party, particularly in relation to the recovery of their costs, where they choose to be represented by a Solicitor and/or Barrister where the other party is either unrepresented or represented by a Patent Attorney.

We hope these comments are of assistance and respectfully request that we be informed of future developments in relation to the proposed revisions to the Patent Rules.