



Adult Education - Training of Patent and Trade Mark Attorneys

Peter Huntsman

“Experience has shown that using adult education techniques provides better results”



Training - Historical

- Few lectures for knowledge-based subjects
- Few tutorials for skills-based subjects
- But mainly self-help and in-house
- One-to-one on the job learning
- Old exam papers

Training - Historical, Cont.



PROS

- Reasonably experienced and useful on qualifying
- Cheap

CONS

- Restricted entrants to the profession
- Training onus on individual attorney
- Often employment decision made too late

Qualification - Historical



- Examination based, set by profession
- Maintenance of standards/low pass rate
- Practical issues in legal/knowledge-based exams
- Pre-exam waiting periods of 1 year then 3 years in UK

Qualification - Now (UK)



- Legal/knowledge-based subject now Foundation subjects
- No waiting period
- Foundation subjects taught/assessed by academic institutions
- Or traditional JEB exams - for how long?
- Traditional JEB exams for advanced or final subjects

Professor Sherr - Concerns (UK)



- Looked at skills-based advanced subjects
- Examination all important
- No training available to all students
- Exam defines subject discipline - poorly
- System does not conform to modern educational aspirations
- Not open to all?

Professor Sherr - Proposals (UK)



- Education/training/exams for advanced subjects within academic institutions
- Set syllabus
- ALSO skills-based assessment within profession
- Reintroduce pre-advanced course/exam delay - 2 years?
- No details yet



Adult Education?

- Training programs based on principles of post-graduate formal training through an external institution, with a fixed syllabus
- Where already?
 - Eg. Singapore, Europe and Australia



Singapore

- 1995
- No patent drafting expertise
- No expertise to teach drafting skills
- 1997 - FICPI SEAD drafting course

South East Asia Drafting Course



- First week long session of patent drafting workshops/tutorials
 - patent law & practice, specification structure, interviewing inventors, identifying invention, claim drafting, description and abstract drafting
- Second six month period of assessed assignments

South East Asian Drafting Course, Cont.



- Third week long session of workshops/tutorials
 - assignment review, full specification drafting, consequences of drafting, court decisions, amendments
- Examination



SEAD - Advantages

- Patent attorney tutors from different countries
- Consistency - comprehensive lecture notes and workshop exercises
- Non-exam assessment in addition to exam
- Spread over extended period



EURO-SEAD

- Based closely on SEAD
- Aims to teach patent drafting skills
- Multi-jurisdictional
- No exam

Australia - Historical



2002 ISSUES PAPER

Discussion on the Regulatory Regime for Patent and Trade Marks Attorneys

Persons obtained registration and entered the profession following a longer period of employment in a firm, and worked under the supervision of a registered patent attorney for an average of four years before completing the examinations and obtaining registration. However, the regime relied heavily on attorney firms' in-house education with consistently high failure rates in the practically based subjects of drafting and infringement and validity.

Australia - Johns Committee



- Federal Government National Competition Policy
- 1996 Johns Committee Report
- System for entry into the profession should provide greater competition in the provision of professional services in IP

Australia - Johns Committee, Cont.



- Gov't reply
 - formal tertiary education system would assist
 - Board directed to seek cooperation of universities
 - Board to accredit courses meeting education standards

Australia - Topic Groups



CORE TOPIC GROUPS:

- A Legal Process and the Overview of Intellectual Property
- B Professional Conduct
- C Trade Marks Law
- D Trade Marks Practice
- E Patent Law
- I Designs

Australia - Topic Groups, Cont.



OTHER TOPIC GROUPS:

- F Patent System
- G Drafting Patent Specifications
- H Interpretation and Validity of Patent Specifications

Australia - New System



- Introduced 1999
- Board to withdraw from exams
 - within 2 years for core topic groups
 - within 5 years for other topic groups
- Aim to provide:
 - alternative way to enter profession and qualify
 - education and examination for people not employed in profession
 - greater competition between patent attorneys

Australia - New System, Cont.



- No time limit on taking courses/exams
- Pass core group topics before taking others
- Eligible for registration as patent attorney if employed in profession - private practice or industry - or as patent examiner
 - for 1 year continuously, or
 - for at least 1 year within 2 consecutive years

Australia - New System, Cont.



- Eligible for registration as TM attorney once all core topic group subjects except Patent Law and Designs passed



Australia - Today

- No Board exams for core topic groups
- Core topic group subjects taught and examined by
 - Melbourne University
 - Monash University (in Melbourne)
 - University of Technology in Sydney (UTS)
- Others seeking accreditation

Australia - IPTA Academy



- Academy has accreditation for “other topic groups”
- Drafting and Interpretation & Validity courses like SEAD
- Patent System course
 - 3 intensive sessions each of one and a half days
 - Assignment and examination

Australia - Universities



- Melbourne & Monash Universities
 - one week intensive courses for core topic groups, with substantial reading list, assignment and examination
- UTS
 - core topic groups
 - electronic courses with CDs of lectures and access to bulletin board and to tutor
 - other topic groups
 - drafting, I&V and Patent Systems courses over 1 semester, either face-to-face weekly after hours or on-line, plus assignment and examination

Australia - Involvement of Profession



- Patent and trademark attorneys heavily involved in
 - teaching and assessment at the universities
 - teaching and assessment in the Academy
 - setting and assessment of the remaining Board exams
- Patent attorney representatives on the Board

Australia - Conclusions



- Universities teaching knowledge-based subjects well
- Students not acquiring practical skills from universities
 - fault of system/syllabus not universities
- IP firms reintroducing in-house skills training

Australia - Conclusions, Cont.



- Students attempting skills-based subjects too early
- Reduction in professional experience on qualification
- Time and cost of new training system

Australia - Board Concerns



The Professional Standards Board for Patent and Trade Marks Attorneys has released its Issues Paper because of

- Doubts that the government's objective for the total withdrawal of the Board from the conduct of examinations can be realised
- Concerns relating to the syllabus in the topic groups, and
- Concerns over the education outcomes arising from the changes introduced in 1999

Australia - Profession Concerns



- Candidates passing university courses too easily?
- Professional standard not being maintained
- More universities to seek accreditation in skills-based subjects:
 - \$\$\$\$\$
 - IP firms have shown willingness to pay



Australia - The Future

- How to maintain standards?
 - split advanced academic education from practical skills training - per Professor Sherr?
 - allows Academy to remain relevant
 - delay skills-based subjects

Australia - An Alternative Future



- Is maintenance of standards important to authorities?
- If not, universities could teach and assess skills-based subjects
- Restriction on practising alone?
- What future for the Academy?

Continual Legal Education



- System must ensure acquisition of information
- To ensure this
 - get involved in external training