



Address for service

- 1) In response to our ongoing discussions with CITMA around Rights of Representation and Address for Service (AFS), the IPO have taken a more proactive approach to use its powers if an application does not meet the requirements of Rule 11 of the Trade Mark Rules 2008. This means we have significantly increased our use of this provision – carrying out hundreds of checks.
- 2) If it has transpired that an application to register a trade mark does not have an effective AFS within the UK, Gibraltar or the Channel Islands, the IPO has been treating such applications as withdrawn. If the IPO has further evidence that an applicant has provided untrue or misleading information in respect of their application to knowingly circumvent Rule 11, then this could lead to the application being ultimately refused on the grounds of section 3(6) of the Trade Marks Act 1994.
- 3) In November 2023, the IPO also updated our [Address for service for intellectual property rights](#) guidance page to explain more clearly that an AFS needs to be effective so that correspondence can be delivered successfully, read by and acted upon by the intended recipient.

AFS team in place

- 4) The IPO now has a dedicated team in place within the trade mark examining area to deal with enquiries and complaints relating to AFS.
- 5) The team has recently held awareness sessions with all examining teams, so that examiners know where to direct AFS related queries with any cases they are examining. This allows the AFS team to intervene and deal with any AFS issues before the case progresses through the examination process.

How to raise a concern

- 6) If CITMA members have evidence to suggest that an applicant or representative that they are trying to engage with has an ineffective AFS, then please do send your observations and supporting evidence (e.g. proof of

correspondence failing to be delivered) to AFS@ipo.gov.uk and this will be investigated.

Banning unregulated agents for misconduct

- 7) If an unregulated agent is found guilty of misconduct, the IPO has the power to stop them from acting as a representative before us.
- 8) This power can be used where the misconduct is to the extent that, if the agent had been regulated, the regulator would have removed them from the register.
- 9) Following helpful feedback from CITMA, we have made changes to our processes and guidance in relation to this power.

Further advice available

- 10) We have updated our [Seeking intellectual property advice](#) page to:
 - Explain how to make a complaint about an unregulated representative.
 - Set out the differences between regulated and unregulated representatives, including explaining that:
 - Regulated attorneys must: pass examinations to become qualified, be insured, carry out training each year, and follow a code of conduct
 - Advice from regulated attorneys is given in confidence (subject to legal privilege)
 - Only regulated representatives are allowed to call themselves a patent attorney, patent agent, registered trade mark attorney or registered trade mark agent
 - Complaints about regulated attorneys are handled independently by IPReg or the Legal Ombudsman
 - Using a regulated representative therefore means there are safeguards in place whereas with an unregulated representative these safeguards are not there.
- 11) This new information complements (and links to) information already provided on our [Why you should use an IP attorney](#) page. We also direct users towards professional representative organisations, such as CITMA, in many other parts of our guidance.

Updated complaints procedure

- 12) We have also updated our [Complaints procedure](#) page to make it clear that we can handle complaints about unregulated representatives. We have made corresponding changes to our internal complaints process to ensure that any

complaint about a representative will be quickly passed to the relevant area for a decision.

- 13) At the same time, we have delivered an awareness raising campaign internally, so that if staff see misconduct, they know who to pass that information to.
- 14) Finally, we are also monitoring enquiries and evidence gathered by the AFS team. This means that address for service violations (and any resulting application withdrawals or refusals) will be assessed and potentially used as evidence for determining misconduct.
- 15) Whether the issue is raised by staff internally, or by a customer, we will consider the evidence and take action taken where appropriate.
- 16) We are committed to protecting customers by taking action where we see misconduct and we hope the changes we have made reflect how seriously we take this.

3 April 2024