

POTTER CLARKSON LLP

CLIENT LIAISON INFORMATION AND TERMS OF ENGAGEMENT

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Introduction

We aim to provide a comprehensive and professional service in intellectual property matters. We also aim to adapt our procedures to suit the requirements of our individual clients. The following comments are intended to clarify the standard basis on which we provide advice and services and to ensure that our relationship with our clients is as beneficial to both parties as possible.

Legal status

Potter Clarkson LLP is a limited liability partnership, registered in England and Wales (No. OC315197), which began trading on 1 January 2006. All business conducted under the Potter Clarkson name from that date onwards has been and will be carried out by and on behalf of the LLP.

References to “Potter Clarkson” and to the terms ‘we’, ‘us’ and ‘our’ in this document refer to the LLP. A list of the members of the LLP can be inspected at our registered office (Park View House, 58 The Ropewalk, Nottingham, NG1 5DD, U.K.). Some of our personnel are referred to as partners, managers, senior associates or associates. They are not necessarily members of the LLP but should be assumed to be acting for and on behalf of the LLP unless the context indicates otherwise. Whenever used, the term “partner” should not be taken as indicating that Potter Clarkson LLP is a partnership under the Partnership Act 1890. None of our personnel will provide advice or services on a personal basis and no member or employee accepts personal responsibility for any advice or services provided to our clients. Similarly, the firm accepts no responsibility for communications sent by our personnel in an obviously personal capacity, whether or not the communication purports to come from the firm.

Responsible partner - allocation of staff

In order to assist in providing a smooth service, and to provide for continuity, a specified partner of the firm is responsible for the relationship with each client. The client’s work will be undertaken by the person(s) who is or are able to perform the particular task in the most efficient way. Sometimes, a team of people is needed, although of course we aim to avoid any unnecessary duplication of work. Appropriate control and supervision of staff is provided at all times, according to the experience and capabilities of the person concerned.

Identification of instructing client

It is important that we are able to identify formally our instructing client. We shall be entitled to assume, unless otherwise instructed in writing, that the legal entity (person, firm, company etc) providing us with the initial instructions in relation to a matter is our client. We may require proof that an individual person is empowered to provide us with instructions on behalf of a corporate client or professional firm.

If we accept instructions from lawyers, patent attorneys or agents, whether in the UK or abroad, on behalf of their client, they and not the person for whom they act will be our instructing client

and will be responsible for settlement of all our invoices, and for reimbursement of all our costs and expenses, in respect of work carried out for, and authorised by, them.

If a client wishes us to render invoices to and accept payment from another entity (for example, another company in the same group, or a law firm's client), then we shall normally be pleased to do this if requested to do so in writing, but responsibility for ensuring that payment is made remains with our instructing client. This applies even if our instructing client is in turn acting for its own client, and regardless of the arrangements that our client has with its client. Responsibility for settling our invoices can only be imputed to an entity other than our instructing client if we agree to this in advance in writing. We would normally need to undertake fresh credit checks for the new payer and/or require payment in advance by the new payer in such situations.

In order to meet our obligations under legislation such as the UK Money Laundering Regulations 2007 and the UK Proceeds of Crime Act 2002, we may need to check the identities of: our clients; directors of corporate clients; "beneficial owners" of clients; the persons issuing us with instructions; and "beneficial owners" of the IP, including the ultimate applicant for the IP. We shall endeavour to carry out such checks in a manner that causes the least inconvenience to all concerned. This may include checking databases held by business information and credit-checking agencies. We shall assume that clients and persons giving us instructions consent to such checks being made unless we are advised otherwise.

There may be circumstances in which we are unable to act for a client, or potential client, until such checks have been completed.

Provision of Instructions

When we accept instructions from an individual, on behalf of a legal entity, and that individual appears to be duly authorised to issue such instructions, we accept no liability for any loss to the legal entity incurred as a result of the individual not being authorised to issue such instructions on behalf of the legal entity.

We may accept oral instructions unless the client has previously indicated that we should accept only instructions provided in some other way. However, particularly in circumstances in which, for example, a property right is being abandoned or abnormally large expenditure is being incurred, we may ask for written confirmation. If the client does not confirm any oral instructions (within a suitable period), then we accept no responsibility if the oral instructions are misunderstood. Similarly, clients should ask for confirmation of receipt of important instructions.

We routinely use email, unless the client asks us not to. We take the pragmatic view that internet correspondence is sufficiently confidential. However, we can accept no liability for non-receipt or late receipt by our client of such communications or for any corruption in the information communicated to our clients or its disclosure to other parties as a result of the interception of such communication. We currently use the SSL encryption system. If a client has the same system, e-mail between us will be automatically encrypted. We are always willing to discuss other security arrangements, to suit our clients.

When clients send instructions to us, whether by email, fax or post, they should check that we have received these instructions in advance of any relevant deadline.

It is obviously necessary for clients to provide us with all of the information which is necessary to carry out a task adequately. We shall not be responsible if such information is incomplete or inaccurate.

When files are transferred to us from other firms of patent or trademark attorneys, or from corporate departments, they are usually accompanied by records of key data. We recommend that we check the records against the source data in the files and/or from public records; we will levy a charge for such checking. However, if the client does not instruct us to carry out such checks, then we accept no liability for errors in the records that were passed to us.

We will normally stipulate appropriate deadlines for decisions to be made and will try to issue timely reminders. We shall not be responsible for meeting statutory or other deadlines if instructions are received late, although we shall always do our best to respond to emergencies. Costs may rise if instructions are received late.

We recommend that clients indicate the desired timetable or deadline for any instructions that are provided to us, so that we can prioritise the work appropriately and also so that we can indicate if the timetable does not seem to be appropriate.

In general we recommend that clients maintain strict confidentiality of any information, connected with instructions that we receive, if that information is not already in the public domain. We would be happy to advise on the desirability of releasing confidential information to the public, in specific cases.

It is important for the client to notify us promptly in the event of any change in contact details and of any change of ownership of their patent or other relevant IP rights. Many such changes have to be officially registered. Clients should bear in mind that the obtaining of patents, trademarks and design rights can take many years. No responsibility can be accepted for any loss of rights in any case where we have not been informed of such changes.

Authority

For such period as we are instructed to carry out work on a client's behalf, the client gives us express authority to complete and sign in its name such forms or other documents as are necessary or desirable to carry out the instructions. The client agrees to indemnify us in respect of all costs, claims, demands and expenses that may result from the exercise of that authority.

Invoices – Statements – Credit – Interest – Client monies

Our bank details are as follows:

	GB£ Account
Account No:	11379961
Account Name:	Potter Clarkson LLP
Sort Code:	16 26 32
IBAN	GB97RBOS16263211379961

Bank Address: The Royal Bank of Scotland plc
8 South Parade
Nottingham NG1 2JS
United Kingdom

US\$ Account
Account No: 2000006443834
Account Name: Potter Clarkson LLP
Bank Address: Wachovia Bank N.A
1525 West W.T.Harris Boulevard
Charlotte
NC 28262
USA

SWIFT/ABA/ROUTING: 053000219

Details of our Euro and Japanese Yen accounts can be supplied upon request.

Particularly in the case of longer projects, we reserve the right to invoice clients before the task is complete; for example, we may issue invoices monthly. Many of our clients prefer to be billed monthly, in any case, and we are always pleased to do this. We require settlement of our invoices in full within the period indicated on the invoice. We may charge interest, at the rate of 4% above the base rate of the Bank of England, after that period.

We issue a monthly statement to each of our clients listing unpaid invoices and their amounts, unless the client has indicated that they do not wish to receive such statements.

Any client may apply to us in writing for credit in respect of work yet to be carried out. We may refuse any application for credit, or impose conditions on any offer of credit. We generally do not offer credit in respect of work invoiced or completed before our receipt of a credit application, and nor do we normally offer credit to any client of less than six months' standing. We may review and alter or cancel any credit arrangement at any time during its existence.

If any of our invoices remain partially or wholly unpaid despite our sending requests for payment, we may without further notice instruct solicitors and/or agents to recover any outstanding amounts. If payment is not made in due time, we reserve the right to suspend further work for the client. Rights may be lost if this happens, and we accept no liability for such loss.

We may request payment in advance of any work, particularly if the work involves major outlay on our part, for example extensive foreign filing programmes or the post-grant registration of EPO patents in the relevant countries. When we make such a request, in general we will not carry out any instructed work until the requested payment has cleared into our bank account. Whenever possible we shall request advance payments by means of pro forma invoices.

Monies that we hold on behalf of clients (other than as advance payment of our fees or disbursements) are kept in a designated client account. Any interest earned on such sums is generally not credited to our client.

Charges

We will on request provide any client or potential client with a written schedule of our standard charges. The information contained in the schedule is strictly confidential as between us and the intended recipient, and will obviously become out of date with the passage of time. The hourly rates chargeable for our professional staff vary according to the experience of the person concerned.

In general our fees, other than for disbursements, reflect the amount of our professional time needed to complete our work. We generally charge for telephone advice at the same rates as for all our other work. Sometimes there are fixed charges associated with specific tasks, for example filing a patent application.

Generally speaking, we are 'retained' by our clients, that is to say we act for them on a continuing basis, rather than for a specific task. Unless otherwise instructed, we shall be entitled to assume that this is the case. Pending patent, design and trademark applications can give rise to Patent Office or Trademark Registry-triggered events, and corresponding granted rights can attract communications from third parties, which in both cases need to be reported to our client; we make appropriate charges for such reports. There may be occasions when a third party instructed by us on our client's behalf has to take urgent action thought to be in the client's best interests without recourse to our firm or to the client. Such action, although rare, will be within the terms of the above over-riding instructions. Hence, if a client has lost interest in an application or a granted right and does not wish to incur any further expenses, we should be instructed to abandon the application or we should be advised that the granted right has been allowed to lapse. Similarly, we will charge for issuing reminders. Clients can therefore keep costs down by providing us with timely instructions.

We will, where possible and on request, provide a written estimate of the expected charges for any item of work in advance of our commencing work. Naturally, such estimates will become out of date and, unless otherwise specified, are valid only for two months. We may deviate from any estimate in the event of the work involved and/or our costs and expenses being greater than initially estimated. When we can, we will try to inform our clients of such possibilities. Sometimes, it is possible to provide a firm quotation for a particular task.

Clients are welcome to discuss with us possible budgets and cost ceilings for particular tasks.

Costs can rise when instructions from clients are received only shortly before a deadline or are incomplete.

Costs and Expenses

We will include in our charges any costs and expenses that are incurred in the performance of our duties to clients.

We usually charge travelling expenses at the rate of the equivalent first class rail fare, business class air fare or a standard (HMRC-calculated) mileage rate for car travel in the United Kingdom, in respect of any journey undertaken on behalf of a client.

Generally we also charge for travelling time, at approximately half the normal rate, unless while travelling we are able to do chargeable work for the client concerned or for other clients.

Termination of retainer

Our retainer to act for a client shall be terminated by either party at any time by giving notice in writing to the other party. Such termination may be effected summarily for good cause, such as conflict of interest or breach of obligation of the other party. In other cases not less than 30 days' notice shall be given. We shall be entitled to charge for all work done and costs and expenses incurred or committed prior to the date of termination.

Confidentiality and Privilege

We undertake to keep our clients' information confidential unless (i) the client authorises us to disclose it, (ii) it becomes public other than through us, (iii) we knew about it before the client conveyed it to us or (iv) we are legally obliged to provide it to a third party. As noted below, such a legal obligation may arise through litigation. There are also circumstances in which legislation such as the Money Laundering Regulations, the Proceeds of Crime Act and the Prevention of Terrorism Act would oblige us to disclose confidential information (on demand or at our instigation) to the relevant authorities. We can accept no liability for complying with such legal obligations.

Some communications between a UK Patent Attorney and his client or a UK Trade Mark Attorney and his client are privileged under Section 280 of the Copyright, Designs and Patents Act 1988 and Section 87 of the Trade Marks Act 1994. In addition, Rule 153 of the European Patent Convention 2000 creates privilege in communications between a European Patent Attorney and his client in relation to proceedings before the European Patent Office. At least in the case of the privilege arising from the Copyright Designs and Patents Act and the Trade Marks Act, this means that others, including the courts, normally are not entitled to discover the content of such communications where they concern professional matters. However, in some circumstances the courts may rule that such privilege is lost or does not apply. In that event we accept no liability in respect of any loss incurred by a client of the firm or any other party as a direct or indirect consequence of the loss or absence of privilege.

This privilege enables us to provide clients with objective advice, in writing, concerning the validity of their IP and strength of their position, for example. However, please note that the privileged status of a letter or other document can be lost if it, or its contents, are disseminated to persons other than the addressee of the document.

Local Attorneys

We have a network of local attorneys for handling overseas applications for our clients and for certain other tasks, such as some kinds of searching and monitoring of third party applications. We endeavour to select firms whose performance and expertise we regard as being of good quality. Nonetheless, these attorneys are not part of our firm. They are responsible for their own work and we shall have no liability for any loss incurred as a result of the acts or omissions of any firm selected by us.

Indemnities

Before we send any warning on behalf of a client to a third party, we ask the client to indemnify us against the risks of our being sued for making an unjustified threat of infringement

proceedings. The aim of this request is to maintain our objectivity, in contentious matters, which would diminish if we were to become a party to any proceedings. We may refuse to act for clients who do not offer us the requested indemnity.

IP Litigation Insurance

Although such policies are seldom taken out, our clients should be aware that, at least in relation to the UK, it is possible in principle to insure against the costs of intellectual property litigation. We are unable to recommend any particular provider of such insurance but we can provide details of brokers who can assist with this. Clients of ours (for example UK solicitors and foreign patent and trademark attorneys) who are providing us with instructions on behalf of their clients should convey this information to their clients.

Conflicts of Interest

We cannot act simultaneously for two clients whose interests in the matter on which we are advising conflict, unless (exceptionally) both clients consent to such an arrangement. When potentially taking on a new client, we try to identify conflicts of interest that may preclude us from acting for the new client. It is helpful if potential new clients identify to us any firms or companies for whom they believe we will be unable to act without a conflict of interest arising.

Sometimes, conflicts arise later because, for example, our clients acquire new companies or diversify into new areas of business. In such circumstances, we reserve the right to decline to act further, at least in relation to the area of conflict, for one of the clients in question, generally the client with the shorter relationship with us. Because of obligations of confidentiality it is often not possible for us to identify the other client or the subject matter involved, when we advise a client that we can no longer act for them.

Where clients have many areas of interest, it is often possible to identify areas that do not cause a conflict of interest, even if there are areas which do cause a conflict. Unless we have a particularly close or broad relationship with a client, we reserve the right to act against that client in an area unrelated to the work that has already been undertaken. Similarly, if our only involvement with the IPR concerned is to have been named as the address for service for the IP registration, then we reserve the right to take a contrary position to that registration.

Renewals

Granted patents and registered designs and trademarks, and in some countries pending applications, need to be maintained by the payment of regular (usually annual) renewal fees (also called maintenance fees or annuities). Important intellectual property rights can be lost if these fees are not paid, and if there is no reliable system in place for paying them. Our clients may pay such fees themselves or they may select any commercial renewal bureau. However, unless clients advise us that they wish to make other arrangements, we recommend, and provide appropriate information to, CPA Global Ltd, based in Jersey (formerly known as Computer Patent Annuities). CPA will then seek instructions, and payment, from our clients directly. We can provide further information concerning CPA or it can be obtained from CPA (www.cpaglobal.com). An advantage of our clients using CPA is that (unless our client undertakes to convey the information to CPA themselves, for example by electing to become a

so-called Direct client of CPA) CPA's records will become updated automatically from our records system. In this way, for example, CPA are made aware of new filings, grants, abandonments and changes of owner.

The European Court of Justice has deemed (Decision T-187/08) that anyone instructing a renewal bureau to pay renewal fees for a Community Trade Mark has to assume at least part of the duty of care required. It is not sufficient to instruct a payment bureau without checking at OHIM itself that the fee has been paid in time. This decision will probably apply also to the renewal of Community Registered Designs.

Maintenance of files

We generally archive our files in a file retrieval system. However, our files may be destroyed when no longer current. Clients should therefore tell us if they require the return of any papers or other materials supplied to us. We reserve the right to retain any papers and materials until all payments due to us have been made. Our own files remain our property. Original documents such as certificates of grant and assignments are sent to our clients for their safe-keeping.

If responsibility for a matter is transferred to other representatives, we may retain the files or take copies of the relevant parts, for which we may levy a charge.

Warranties and authority - liability

In retaining us for their work, clients warrant that their instructions will not cause us to infringe the laws or other regulations of any country and that all information provided to us will be complete and accurate. The client will normally also authorise us to complete and sign in the name of the client such forms etc as are necessary or desirable to carry out the lawful instructions of the client and the client shall indemnify us in respect of all costs, claims, demands and expenses that may result from exercise of that authority.

Although we regularly carry out virus checks, we advise our clients to carry out their own virus checks on any communications (whether in the form of computer disc, e-mail, Internet or otherwise). We accept no liability (including in negligence) for any viruses that may enter clients' systems or data by these or any other means.

The extent of our liability for any professional negligence shall be limited by our insurance cover and will in any case not exceed £5 million.

Variations

Any variations in these terms of engagement must be agreed in advance and in writing with the partner responsible for the affairs of the client. For certain, specific, tasks, a separate letter of engagement may be executed. The specific letter of engagement will supersede any terms of this general document which are incompatible with it but, otherwise, the terms of this general document are unaffected.

Complaints - Regulation

We value our good relationships with our clients. If a client is unhappy about any aspect of our service, he or she should in the first instance raise the matter with his/her usual contact within the firm. If this is not the partner who is responsible for their affairs and if satisfaction has not been obtained, then the matter should be raised with that partner. If the client is still unsatisfied, recourse should be made to our Managing Partner, or, for financial matters, to our Practice Director.

The firm has a formal internal complaints procedure, details of which can be provided on demand. Clients may convey the complaint to us in any manner that they choose. However, if the complaint is made in a meeting or a telephone call, we strongly recommend that it also be summarised in writing, as this helps us to ensure that it is dealt with appropriately.

If the client is not satisfied with the outcome of our internal complaints procedure and the complaint concerns professional misconduct, then clients may contact IPReg (www.ipreg.org.uk), which is the body that regulates patent and trade mark attorneys (including our firm) in the UK under the Legal Services Act 2007. Alternatively, if (i) the complaint alleges poor service and (ii) the client is an individual, a personal representative of a person's estate, a (residual) beneficiary of a person's estate, a small business¹, association, club, charity or trust, then the client may complain to the Legal Services Ombudsman. Details of the Legal Ombudsman (LeO), who can use its services and the relevant procedures can be found at www.legalombudsman.org.uk. Please note that the complaint should be made to LeO no later than 12 months from when the problem occurred, or from when the client should reasonably have become aware of the problem, and no more than six months from our final response to the complaint.

Governing law

Our engagement shall be subject to the laws of England. The English courts shall have exclusive jurisdiction to deal with any disputes which may arise between the client and ourselves and which are not resolved in accordance with the provisions of the preceding section.

Potter Clarkson LLP
February 2011

¹ Namely a 'micro enterprise' as defined in European Recommendation 2003/361/EC.