



example, one such being the one that led to the famous *Improver v Remington* litigation, a worldwide litigation that started in Hong Kong after my, then, client refused to accept my conclusion that Claim 1 was too narrow for it to be infringed by Remington because Hong Kong patent law does not recognise the concept of mechanical equivalents.

Another problem is the role of solicitors in the provision of patent agency services since, by and large, most solicitors are not from a technical or scientific academic background and yet they have every right, should they choose to do so, to draft and prosecute patent applications in the UK. I have come across instances, one very recently, whereby precisely this happened, leading to the grant of a UK patent with serious flaws in it, to the detriment of the client, who may not realise that the patent is not as strong as it should have been. Whilst, currently, Hong Kong does not suffer from this type of problem it could do so in the future if it is to offer an original grant patent, more particularly given the pressure for firms of solicitors to extend their services into as many areas of law and practice as possible. Hence, for any regulatory system to be credible I believe it should recognise the difference between re-registering Chinese National or European UK patents in Hong Kong, which is a straightforward process of the "agency" type, as compared to the drafting of patent applications and patent claims, which is a highly skilful occupation and, in my view, with some thirty three years experience in the profession, can only competently be done by persons with, firstly, a technical or scientific background to degree level or similar, and, second, through specialised training in the difficult skill of patent drafting. By way of comparison with the UK in general and myself in particular, I have an engineering background and a physics degree, and qualified as a chartered patent attorney at the first attempt after four years of training, that being the minimum allowed when I qualified in 1984. Since then, qualification as a patent attorney has been made somewhat easier such that those with the required skillset are able to qualify in less than four years, but it is still nevertheless a necessarily difficult qualification to obtain before we are allowed to use the term "patent attorney" in the UK.

Hence, I believe Hong Kong needs to make a distinction between Patent Agency Services and Patent Attorney services so that it has credibility when it comes to patent drafting, such that only those with the necessary technical and legal training can practice as a Patent Attorney.

The foregoing considerations strongly suggest that introducing an original grant patent system can only be credible if the people who use it i.e. those who draft the patent Specification and Claims are both technically and legally qualified to do so, having sat and passed relevant examinations in either China, the UK or in those countries having patent laws that are similar to the UK and China which, as you may be aware, are actually quite similar as concerns level of inventiveness required and level extent of protection afforded by the patent Claims. The level of qualification



does not need to be as high as for, say, purposes of becoming a UK Chartered Patent Attorney, where we deal with both the drafting and prosecution patent applications and also consider validity and infringement etc. but it should be sufficiently rigorous so that inventors using the system will know that their invention is being adequately described so that good quality and sufficiently broad patent Claims are being obtained, rather than the invention being inadequately described and inadequately protected due to the scope of the Claims being too narrow and/or unclear. If Hong Kong is to go to an original grant patent system the patent must be robust for it to have your stated effect of encouraging local innovation and attracting overseas research and development centres.

Yours faithfully

A handwritten signature in cursive script, appearing to read 'Richard Halstead'.

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