

# What is it Like to Train as a Patent Attorney?



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*J A Kemp is one of the UK's leading firms of patent and trade mark attorneys. The firm recruits up to six trainee patent attorneys at graduate or PhD level each year. Dan Cooney is a patent attorney in the Engineering and IT group. Dan oversees the training programme for trainee patent attorneys through to completion of their professional qualifications. If you are considering the possibility of becoming a patent attorney - a career option that enables you apply your knowledge of science in a legal and business context - Dan's insight into the early years should help you to form a view on whether it might be right for you. Here is what Dan has to say.*

I have worked at J A Kemp since I entered the profession, so I have been through the training programme that I now oversee.

Whilst the detail of the programme continues to be adapted to take account of trainee feedback and changes to the professional examinations, the fundamental rationale remains unchanged: we aim to give our trainees comprehensive support at every stage of their training. I certainly felt that the firm ensured I was well prepared and supported for each of my professional examinations. The amount of support given to trainees at this firm is something that is remarked upon by people joining from other firms or industry.

The firm is rightly proud of its record of first-time passes in the professional examinations, which is second to none. I describe below how a trainee progresses through our training programme to become a qualified patent attorney.

## The First Few Weeks

When a new trainee starts at J A Kemp, they are assigned a 'mentor'. The mentor is a qualified patent attorney (usually a partner, sometimes a senior associate) who is primarily responsible for providing and overseeing the trainee's work and 'on the job' training, at least for the first few weeks. As the trainee settles into the job, they will gradually begin to handle work from other partners and associates too, but their mentor will remain their first port of call for any day-to-day questions and will continue to be the person they work with most. This arrangement gives the trainee the benefit of a primary 'trainer' as they learn the ropes of the profession, but at the same time gives them exposure to working with other people, who may have different styles and/or approaches (or just different types of work) to their mentor. As such, the system aims to balance consistency and variety, to give the trainee the best possible environment in which to learn.

A trainee's first few weeks also involve a fairly intensive programme of 'orientation' training organised by our HR team. This involves practical things, like getting to know the firm's IT systems, as well as introductions to the various business support functions in the firm. This means that the trainee meets a lot of new people over their first couple of weeks. There can be a lot to take on board, but this approach also means they are aware from the very start of the sorts of help that might be available to them from various parts of the firm.

## Ongoing Training

As well as training specific to the trainee's level of qualification (discussed further below), there are various ongoing professional training activities at J A Kemp that bring together trainees of different levels, as well as qualified patent attorneys. Each team runs their own series of team meetings, bringing together all the trainees and qualified attorneys in that particular team, to discuss practical matters as well as developments in the law (usually driven by legal decisions from the EPO's Boards of Appeal or from the UK Courts). These sessions are often focussed on the particular technical field of each team and therefore very relevant to day-to-day practice.

As well as the team meetings, we also run a 'Journal Club' for trainees. This is run by the more senior trainees (typically those awaiting the results of their final qualifying examinations), with the involvement of a supervising qualified attorney to ensure that things stay on track and important points are not missed. Compared to the team meetings, the focus is more on training and exam preparation, meaning historic 'landmark' decisions are often the focus of any particular session. The Journal Club is also cross-team, so the trainees are exposed to areas of law that they might not come across in their day-to-day practice, but which they will nonetheless need to be well acquainted with when they do their professional examinations.

It should also be mentioned that one of the most valuable sources of training is the day-to-day case work that trainees are involved in from their very first day at the firm. By discussing particular cases and the various legal problems they present with their mentors or other colleagues, trainees develop not only their legal skills but also their practical skills of communicating potentially complex issues to clients who are not experts in the patent law. This is a key skill when it comes to sitting the UK qualifying examinations in particular.

A trainee's progress is always under review, so that they can be given any additional help they need. Once a year there is a structured performance review in which the trainee discusses how things are going with their mentor and another partner from their team. This allows targets for the trainee (and their mentor!) to be set for the following year.

## Start of First Year - Internal Introductory Tutorials

Besides everything mentioned above, a trainee's first year also involves a programme of internal tutorials. These tutorials are mostly given by recently qualified attorneys within the firm. They run through major topics in UK, European and international patent law. They also aim to provide practical advice on how the firm manages particular tasks.

Obviously there is a bit of overlap between these tutorials and the sorts of things that trainees will be learning from their mentor. However, the tutorials provide a more informal setting for discussing very specific topics (they are usually given by relatively junior members of the firm and they take place over lunch). Speaking from experience, in this environment trainees feel comfortable asking questions about things that they might think are 'silly' or that they might fear would be seen as wasting their mentor's time (incorrectly, I should say: mentors expect to answer questions!). As a result, by the time the programme of tutorials has been completed, trainees ought to have a thorough understanding of the basics of the patenting process and a feel for the various complexities that can arise. This understanding can then be further fleshed out through their day-to-day case work.

The first year tutorial programme consists of around twenty tutorials. The aim is to have one a week from shortly after the trainee starts. Most trainees start around October, meaning the tutorials are usually finished by around Easter the following calendar year.

### End of First Year / Start of Second Year - Queen Mary Course

At the end of a trainee's first year (crossing into the start of their second year) trainees will attend the Queen Mary (QM) Certificate in IP course. This exempts a trainee from the first tier of UK professional examinations (the foundation certificate examinations).

The Queen Mary course is a taught course that usually runs from mid-September to mid-December, with examinations in the following January. As well as patents, the course covers a range of other IP topics: trade marks, copyright, design rights, competition law and basic English law.

There is plenty to learn. The firm has generous study-leave arrangements to give trainees time to assimilate their new knowledge in time for the examinations.

We choose not to send trainees on this course in their first year. Having become familiar with patents in their first year trainees find that one major component of the QM course is already 'home territory' when they attend the course in their second year, hopefully reducing any feeling of information overload!

Many of the topics covered by the QM course fall outside the main focus of our daily practice, although it is critical to be aware of the potential relevance of these other areas of IP. This is one reason we prefer to use an external course, taught by experts in each particular field, for this stage of the trainee's development. Another benefit of using an external course is a social one: it gives the trainees a chance to meet and get to know trainees from other firms.

### End of Second Year / Start of Third Year - EQE Pre-Examination

In order to take the first stage of the examinations to qualify as a European Patent Attorney (the EQE pre-examination), you must have been working as a trainee patent attorney for two years.

The examinations are normally at the end of February or the beginning of March, so trainees who started their training in October two years before will be able to take the examination early in their third year of training.

We have developed a series of in-house tutorials specifically to help candidates prepare for this examination. The actual examination has two parts, a 'legal questions' part and a 'claim analysis' part. Both parts are multiple choice, so there is not much exam technique to learn, but we have found that each part does benefit from a slightly different approach to get the most benefit from tutorials.

The legal questions really require some independent book-work from candidates, to make sure they are familiar with the relevant legal provisions. As a result, our tutorials really aim to help candidates get familiar with the sorts of questions they might be asked and some of the 'traps' to look out for in questions.

Candidates can require a bit more of a helping hand with the claim analysis questions. Theoretically these questions are based on technical subject-matter that should be accessible to all, but in reality the style of claims will be a bit unfamiliar to those working in the fields of chemistry or biotechnology. Our internal tutorials aim specifically to help those candidates feel more comfortable with the type of claims they will be presented with in the examination.

We run these tutorials in-house. This means we can use trainees and qualified attorneys who have sat the examinations relatively recently as the primary pool of tutors. Trainees can be confident that they are getting the benefit of tutors with up-to-date knowledge of the examinations. In the unlikely scenario that there is an issue the tutors cannot deal with, there is also access to our wider pool of EQE tutors for the 'main' EQE examinations, who are more senior and experienced.

Unavoidably, preparing for these examinations (and the others in later years) takes time, be that for reading legal texts or doing past papers as practice or for tutorials. J A Kemp makes a generous study leave provision to ensure that candidates have the time they need to prepare for all their professional examinations.

### **End of Third Year / Start of Fourth Year - EQE Main Examinations**

In order to take the second stage of the examinations to qualify as a European Patent Attorney (the main EQE examinations), you must have been working as a trainee patent attorney for three years and have passed the pre-examination. Once again, the examinations are normally at the end of February or the beginning of March, so trainees who started their training in October three years before (and have passed their pre-examination) will be able to take the examination early in their fourth year of training.

The main EQE examinations have four papers covering patent drafting, patent amendment, opposition drafting and legal matters. Each of these papers requires a different approach and technique.

To help candidates prepare for these examinations, we once again provide in-house tutorials but also make use of an external course. The particular external course we use changes, depending on previous candidate feedback, to give new candidates the most benefit possible.

Our internal tutorials focus on going through past papers, as that is the best way to learn the particular techniques and styles best suited to answering each individual paper. Candidates also have access to a range of internal templates to help them answer questions, as well as other training materials and books that they can access by themselves. Our internal tutorials are, again, run by those that have recently passed the examinations so that their knowledge is up to date.

### **End of Fourth Year - GB Final Diploma Examinations**

After sitting the main EQE examinations, trainees get a brief respite before having to think about their final GB examinations, which typically occur in the autumn of the same year.

Unlike the EQEs, there are no time restrictions on how long a candidate must have been training before sitting the GB final examinations (although they must have passed the foundation certificate examinations or have exemptions from them through a course such as the QM course previously discussed).

Some firms put forward candidates very early in their training, with the rationale that a failed examination can be re-sat, and many firms have a training scheduled in which the GB examinations are sat before the main EQE examinations.

At J A Kemp we prefer to delay the GB examinations until after the EQE examinations, for several reasons.

First, passes in your EQE examinations provide exemptions from certain papers in the GB finals, so the overall number of examinations to be sat can be reduced.

Secondly, keeping the GB examinations until after the EQE examinations means you don't mix up your revision for the two sets of examinations, keep things nicely compartmentalised.

Thirdly, the GB examinations test your ability to give good advice to your client. It is not enough simply to know the law, or even to be able to apply it. You need to be able to present options and make recommendations to your client. You develop this skill with experience in day-to-day handling of cases. The more you gain of that sort of experience before sitting the GB examinations, the more chance you have of doing well in your examination and not having to re-sit the papers.

Finally, the EQE exams are more relevant to our day-to-day practice: we do a lot more work at a European level than a UK national level.

As for the main EQE examinations, we make use of a combination of internal tutorials as well as an external course, to give candidates the best possible preparation. Once again, our internal tutors are primarily sourced from those that have passed the examinations relatively recently, so that they are familiar with the current style of the examinations.

### **Fifth Year Onwards - Training Never Stops!**

We are very proud of our training programme and our candidates have excellent first-time pass rates. Sometimes we have a candidate who needs to re-sit a paper, particularly for the GB examinations which are widely accepted as having a less rigid structure than the EQE examinations. All the resources that were available to first-time sitters are made available to any trainee who needs to re-sit a paper. Extra support is available to help the trainee to understand what they can learn from their performance in the previous paper. We do not ask candidates to pay their fees for any re-sits and we do whatever we can to help and support them through the process.

Once a patent attorney (no longer a trainee!) has acquired their GB qualification, they must complete a litigation course in the years immediately following their entry onto the register of UK chartered patent attorneys. The attorney will attend an external course unless we have sufficient candidates to justify having an 'internal' course run by approved external providers.

Qualified UK patent attorneys are also subject to continuing professional development (CPD) requirements. The purpose of CPD is to ensure that every attorney continues to train, learn and develop throughout their career.

The firm helps attorneys to meet their CPD requirements through, amongst other activities, the internal team meetings mentioned previously and internal cross-team CPD seminars that replace the 'Journal Club' that trainees attend. Even when you are qualified, we do our best to make sure our attorneys keep up to date with current legal developments, providing everyone with learning opportunities far in excess of the minimum CPD requirements. So your training never really ends!