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## **COLLABORATION BETWEEN LAW FIRM, LITIGATION FUNDER AND INSURANCE BROKERAGE CREATES ACCESS TO JUSTICE ENHANCING PRODUCT FOR OWNERS OF INTELLECTUAL PROPERTY.**

Debenhams Ottaway LLP in association with Sparkle Capital Ltd, Sybaris Legal & IP and Acasta Europe Limited have today launched a product to fund claims brought in the Intellectual Property and Enterprise Court (“IPEC”). The product follows collaboration between the innovative law firm, who last year set up a litigation funding panel and Sparkle Capital, a litigation funder. Sybaris Legal & IP, an insurance broker operating in the intellectual property arena will operate one of the distribution channels for the product and Acasta will provide the After The Event insurance.

The product can cater for claims valued from £50,000 to £500,000. The fixed recoverable costs in IPEC limit the recoverable costs in stages up to £50,000 (save in some circumstances in which a party beats a Part 36 offer). The IPEC regime is therefore attractive to litigation funders and ATE insurers because it limits exposure for adverse costs particularly where the Arkin cap<sup>1</sup> is under threat from developing jurisprudence.

The product is aimed both at the SME market and IP portfolio holders such as brand owners, musicians and the pharmaceutical industry. It covers a variety of different types of Intellectual property claims ranging from trade mark infringement and passing-off to copyright, design right and patent infringement claims. It combines a discounted conditional fee agreement with Debenhams Ottaway within a funding package from Sparkle Capital to meet the discounted element of the fees and disbursements. The cost of the funding is low by market standards because it is based on a fixed interest rate rather than the market standard “share of the award”. And it is non-recourse as it is covered by the relevant After the Event and Financial Guarantee Insurance provided by Acasta.

Commenting on the launch of the product, Debenhams Ottaway lead litigation and dispute resolution Partner, Luke Harrison, who also serves as Chairman of the Commercial Litigation Association said:

*“The IPEC funding product is essentially an access to justice tool. It enables those who have suffered a legal wrong to obtain redress whilst avoiding the risks associated with litigation. Intellectual property is an intangible asset which is easy for third parties to exploit and profit from. Whilst there are a number of ways IP may be protected, enforcing those rights in practice through the Courts is often the only tool available to protect that value.”*

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<sup>1</sup> Whereby funders are ordered to pay adverse costs, but only up to the level that they invested in the case.

Senior Associate and lead Intellectual Property disputes Lawyer at Debenhams Ottaway, Rosie Patterson said:

*“The IPEC funding product should go some way to addressing the imbalance in resources that we often see between parties in IP disputes, an imbalance that frequently acts as a barrier to Claimants bringing actions to protect their rights.”*

Tets Ishikawa, Director at Acasta and Senior Adviser at Sparkle Capital, commented:

*“Acasta and Sparkle are delighted to partner with our forward-looking partners, Debenhams Ottaway and Sybaris Legal & IP, in launching this IPEC Funding Product. The delivery of real access to justice can only progress with a solutions-led approach that lead to products meeting the actual needs of legal claims. This is the result of that approach and is part of our overall strategy to deliver innovative, relevant insurance and funding products to the litigation market.”*

Commenting on the launch of this new product, Ian Wishart, a director of Sybaris Legal & IP and himself an experienced patent attorney and an inventor, said:

*“This new funding product will benefit potential litigants before IPEC who have been unable to pursue good claims, sometimes against much larger firms, because of a lack of resources. It levels the playing field, and enables IPR owners to retain value and leverage those rights.”*

#### Notes

1. **Debenhams Ottaway LLP** is a leading law firm with offices in Hertfordshire and a London space. The firm acts for high net worth individuals, entrepreneurs and established businesses including, in specialist fields, a number of household brand names. The firm’s litigation and dispute resolution team is known for its entrepreneurial and collaborative approach and fastidious approach to delivering value to clients. The firm also boasts the leading contentious intellectual property team in the northern home countries lead by former city lawyer Rosie Patterson.
2. **Sparkle Capital Ltd** was founded in 2014 as a third-party commercial litigation funding business. We are a privately-owned company belonging to the family of Fred Done, who is best known for founding BetFred and various other business interests, including real estate and insurance. We are administered by Acasta Europe Limited, an ATE insurance provider.”
3. **Acasta Europe Ltd** provides administrative services to Acasta European Insurance Company Ltd, an insurer founded in 2006 and active in 12 European countries across 9 classes of insurance. We are an active provider of legal expenses insurance in the UK being one of the most trusted and innovative ATE insurance providers in both delegated authority Personal Injury and bespoke commercial, clinical negligence and insolvency cases. We have a core base of loyal partners that we work closely with to provide innovative solutions that enhance their businesses.
4. **Sybaris Legal & IP** is a trading identity of Sartorex Group Ltd, which is an accredited Lloyds broker. Sybaris Legal & IP has been broking specialist legal and IP risks for over six years, and has a team of highly experienced brokers and IP specialists, who have been assisting micro-businesses to £100+M turnover companies with IP insurance, After the Event insurance and litigation funding