



HM Courts &
Tribunals Service

Guide to the Intellectual Property Enterprise Court Small Claims Track

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By authority of the Chancellor of the High Court

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1. Introduction

This Guide applies to the small claims track within the Intellectual Property Enterprise Court (“IPEC”). It aims to help users and potential users of the IPEC small claims track by giving practical tips and explaining:

- how to decide if the IPEC small claims track (“SCT”) is suitable for a claim
- how claims proceed in the IPEC SCT
- what procedures apply in the IPEC SCT
- how to contact the IPEC SCT.

This edition of the Guide has been updated to July 2023.

At the end of the Brexit transition period on 31 December 2020, certain EU registered and unregistered intellectual property rights which previously fell within the scope of the IPEC SCT ceased to be enforceable in the courts of England and Wales. Limited transitional provisions apply, but these are not set out in this Guide as they will apply only to a small number of claims.

Some of the legal terms used in this Guide are explained in the section of Commonly Used Terms in Annex B.

The Civil Procedure Rules (“CPR”) govern proceedings in civil courts in England and Wales, which are supplemented by Practice Directions. They can both be found here: <https://www.justice.gov.uk/courts/procedure-rules/civil/rules>.

Part 63 – Intellectual Property Claims (“CPR 63”) and *Practice Direction 63 – Intellectual Property Claims* (“PD 63”) set out additional rules that apply only to intellectual property claims. The rules which apply specifically to IPEC small claims are:

- CPR 63.27 and CPR 63.28
- PD 63 para 32.2
- all other rules and paragraphs referred to in CPR 63.27, CPR 63.28 and PD 63 para 32.2
- CPR 27 (which deals with the SCT in general)

Where there is any conflict or confusion between the provisions of this Guide and the CPR, you must follow the rules and practices as set out in the CPR.

Further useful information can be found in the *Guide to the Intellectual Property Enterprise Court*, the *Patents Court Guide* and the *Chancery Guide* which can be found at www.justice.gov.uk.

2. The IPEC and the IPEC small claims track

The IPEC provides a streamlined and more cost-effective forum to hear lower value and less complex intellectual property claims. IPEC cases are allocated either to the multi-track or the SCT.

The IPEC SCT provides a forum with simpler procedures by which the most straightforward intellectual property claims with a low financial value can be decided:

- without the need for parties to be legally represented

- without substantial pre-hearing preparation
- without the formalities of a traditional trial and
- without the parties putting themselves at risk of anything but very limited costs.

IPEC SCT cases are heard by District Judges or by Deputy District Judges. IPEC multi-track cases are heard by Enterprise Judges or Deputy IPEC Judges.

3. Location of the IPEC small claims track

The main home of IPEC small claims is in the Manchester Business & Property Court, Manchester Civil Justice Centre, 1 Bridge Street West, Manchester M60 9DJ. From 3 July 2023 all SCT claims filed in London by CE File or in person will be transferred to the Manchester Civil Justice Centre for case management and for trial either in person or by video link. The Practice Note dated 7 June 2023 issued by HHJ Hacon, the Presiding Judge of the Intellectual Property Enterprise Court is attached at Annex C. It sets out how cases will be dealt with going forward. There will be no change to IPEC SCT claims filed in any of the centres outside London. These will be case managed and trials will be heard at the place of filing unless transferred elsewhere. There will be no change to IPEC SCT claims filed before 3 July 2023 where they will be dealt with by District Judges of the IPEC sitting at the Thomas More Building in London unless transferred elsewhere.

Annex A provides details (correct at publication) of the email addresses and useful contact details for all the regional IPEC small claims hearing centres.

4. Is a Claim Suitable for the IPEC small claims track?

Whether a claim is suitable for the IPEC SCT depends mainly on:

- the *type of intellectual property rights* it relates to; and
- its *value*; and
- the *remedies* sought

4.1 Type of Intellectual Property Rights

The IPEC SCT is only suitable for claims which relate to the following intellectual property rights:

- copyright
- UK registered trade marks (including comparable UK trade marks)
- passing off
- UK unregistered design rights (including continuing unregistered designs - CUDs - and supplementary unregistered designs - SUDs)

The IPEC SCT cannot be used for claims relating to certain other intellectual property rights, including:

- patents
- registered designs
- plant varieties

For full information about what types of claims can and cannot be brought on the IPEC SCT see CPR 63.2(1) and PD 63 para 16.1.

If a claim is not suitable for the IPEC SCT because of the type of intellectual property right it relates to, you may wish to consider whether it is suitable for the IPEC multi-track or the Patents Court instead. The General IPEC Guide and the Patents Court Guide may assist you in reaching this decision.

A claim relating to a type of intellectual property right which is suitable for the IPEC SCT, must also fit within the value limits of the SCT.

4.2 Value

The IPEC SCT is only suitable for claims where the amount in dispute (not including costs) is £10,000 or less. If the claim has a value of more than £10,000, it is unlikely to be suitable for hearing in the SCT, unless the court orders otherwise.

The IPEC multi-track is suitable for claims with a value above £10,000 but not exceeding £500,000. Higher value claims are usually suitable for the Patents Court.

Before bringing a claim in the IPEC SCT, the claimant should also make certain that each of the remedies it seeks is available.

4.3 Remedies

The IPEC SCT is suitable for claims where the remedies being sought are damages for infringement, an account of profits, delivery up or destruction of infringing items and/or a final injunction to prevent infringement in the future.

Interim remedies (which are remedies ordered before the final hearing of the claim) such as interim injunctions, asset freezing orders and search and seizure orders are not available on the IPEC SCT. A claim seeking these remedies, which would otherwise be suitable for the IPEC SCT, should be made on the IPEC multi-track instead.

5. Who Decides Whether a Claim Starts and/or Stays on the IPEC small claims track?

The Claimant must state clearly in the Particulars of Claim if allocation to the IPEC SCT is requested. It is also helpful to the court if the Claimant adds “Small Claims Track” on the front of the Claim Form. If the Claimant does so, the claim will be allocated to the IPEC SCT unless a Defendant objects in its Defence or the court considers the IPEC multi-track or Patents Court to be more appropriate.

If the Claimant does not opt for the SCT but the Defendant does, or the Claimant opts for the SCT but the Defendant objects, the court will send the parties a directions questionnaire. The parties must send the completed questionnaire to the court within the time stated in the questionnaire and serve a copy on all the other parties within 14 days. The court will then allocate the claim to either the SCT or multi-track as it thinks appropriate.

In deciding on allocation, the court will take into account the value of the claim, the type of intellectual property rights it relates to, the likely complexity and the number of parties and the number of witnesses that may be needed to give oral evidence. A claim where both liability and quantum cannot be resolved within one day (to include judicial reading time) are usually not suitable for the IPEC SCT. By way of example, cases concerned with the validity of trade marks (rather than the infringement of a trade mark), for example, are unlikely to be suitable.

Where cases are transferred from one track to another, the costs rules applicable to the original track will apply up to the date of re-allocation and the costs rules on the new track will apply from the date of re-allocation onwards.

6. Do Parties need Legal Representation in the IPEC Small Claims Track?

The IPEC SCT is designed to be used by parties who do not have a legal representative acting for them. Accordingly, it has more simplified procedures than a standard civil claim, hearings are more informal in nature and evidence is not usually taken on oath. Additionally, if all the parties agree, the court may deal with the claim without a hearing at all, by considering the documents in the case and the written arguments of the parties instead (CPR 27.10). It should be noted, however, that the court will still apply the law and will decide the case on the evidence the parties have made available.

The choice whether to be legally represented or not in the IPEC SCT is one for each party to make for themselves. A party may be represented by a solicitor, barrister, patent attorney or trade mark attorney. Corporate parties may be represented by an officer or employee of the company.

Many parties who are not legally represented choose to bring a friend or family member to hearings. That person may speak for the party or provide moral and practical support.

Practice Direction 27 permits a solicitor or barrister to represent their client in his/her absence. However, this is an unusual circumstance since the district judge hearing the case may require the party to give evidence or may have questions to put to the party directly.

There are various sources of free (or “pro bono”) legal advice available to parties. A good place to start is a Citizen’s Advice Bureau or Law Centre, although some such charities do not provide advice to businesses. There is a Citizen’s Advice Bureau based in the Royal Courts of Justice in London (www.rcjadvice.org.uk) which offers advice and assistance on the procedural aspects of bringing or defending a claim.

Specialist IP advice may be particularly valuable. Relevant professional organisations such as the Chartered Institute of Trade Mark Attorneys (CITMA): <https://www.citma.org.uk/find-a-chartered-trade-mark-attorney.html>, the Intellectual Property Regulation Board (IPReg): <https://ipreg.org.uk/registers>, or the Law Society: <https://solicitors.lawsociety.org.uk> may be of assistance. Free IP advice may be available from IP Pro Bono (<http://ipprobono.org.uk>).

Further information about free legal advice can be obtained from the National Pro Bono Centre which houses national clearing houses for legal pro bono work in England and Wales (www.nationalprobonocentre.org.uk).

7. Procedure in the Small Claims Track

7.1 Before issuing proceedings

Claimants in the IPEC SCT should be aware of the Practice Direction (Pre-Action Conduct). This encourages disputing parties to communicate with each other with a view to avoiding litigation or, at least, narrowing the areas of dispute between them. Compliance with it is not a requirement, but it does affect the timing for the service of any defence once a claim has been issued (see “*Time Limits for Serving Documents*” below).

Claimants must state in the Particulars of Claim whether or not they have complied with paragraph 6 of the Practice Direction (Pre-Action Conduct) (CPR 63.20 (2)).

As unjustified threats to bring legal proceedings in respect of many intellectual property rights can themselves be subject to litigation, each Claimant will need to make their own decision as to whether it is appropriate to contact a prospective defendant to see if matters can be resolved before any proceedings are issued.

If a Claimant chooses not to comply with the Practice Direction (Pre-Action Conduct) this may be taken into account against him when the court considers the issue of costs recovery.

7.2 Issuing Claims

Claims should in the first instance be issued online using the CE-File case management system, instructions for which are found here: HMCTS E-Filing service for citizens and professionals - GOV.UK (www.gov.uk). The CE-File case management system allows for the claim form to be issued and the court fee paid. It can also then be used to submit further documents on the case or to make an application.

Alternatively, if there is a need to issue a paper claim, the documents can be posted to the Manchester Civil Justice Centre (CJC) (address below) or there is a drop box on ground floor in the CJC (reception desk) which parties can use if they want to bring them in. There is a High Court counter available but is on an appointment basis only and only if urgent. The address is:

IPEC (Small Claims)

Business and Property Court

Manchester Civil Justice Centre

1 Bridge Street West

Manchester

M60 9DJ

The Claim Form should be marked “*In the High Court of Justice, Business and Property Courts in Manchester Intellectual Property List (ChD), Intellectual Property Enterprise Court, Small Claims Track*” in the top right-hand corner.

Those court users who have any queries about their claim should contact Manchester by email or phone. The email address is bpc.manchester@justice.gov.uk or 0161 240 5307.

The proceedings start with the issue of the Claim Form, which the court will “seal” with a court stamp. However, the time for a Defendant to file a Defence does not run until the Claimant serves both a sealed copy of the Claim Form and the Particulars of Claim on that Defendant. The

Particulars of Claim may be contained in the Claim Form or served separately. See “*Time limits for Serving Documents*” below.

7.3 Service of Documents

CPR 6 sets out the rules that apply to the service of documents, including the service of the Claim Form and the Particulars of Claim. The deadline for a party to take a step in the proceedings is often within a specific number of days after service of a document, e.g. “within 14 days after service of the Particulars of Claim”. In order to know when a deadline expires, you therefore need to know the date of service of the document.

Please note that the date of service of a document is not necessarily the date the document is actually received. The time limit will run from a “deemed date of service” which is a date determined in accordance with CPR 6. Parties must therefore check CPR 6 to be certain of the time limits that apply to them.

7.4 Service of the claim

In IPEC SCT cases, it is the Claimant’s responsibility to serve each Defendant with the Claim Form together with a response pack and the Particulars of Claim (at the same time or later). This is not done by the court. The Claimant should therefore make sure that the Defendant’s copy of the Claim Form (sealed by the court) is obtained at the time of issue. Details of how to obtain the response pack will be given to the Claimant by the court on issue of the claim.

The service requirements vary depending on the nature of the Defendant (for example, individual or company). Please refer to the table at CPR 6.9 to identify the requirements that apply.

The Claimant must file a certificate of service of the Claim Form within 21 days of service of the Particulars of Claim, unless all the Defendants have filed Acknowledgments of Service within that time (CPR 6.17). A Claimant may not obtain judgment in default under CPR 12 unless a certificate of service has been filed at court.

7.5 Time Limits for Filing and Serving Documents

The Claimant must serve the Claim Form on each Defendant within 4 months after the date of issue of the Claim Form unless it is to be served outside the jurisdiction when it must be served within 6 months of issue. These are strict time limits.

The Claimant must serve the Particulars of Claim on a Defendant either at the same time as the Claim Form or within 14 days after deemed service of the Claim Form.

If the Defendant does not respond to the Particulars of Claim, default judgment may be entered against him/her.

There are two ways for the Defendant to respond (see CPR 63.22). If ready to do so, the Defendant can simply file and serve a Defence, with or without a Counterclaim, within 14 days after deemed service of the Particulars of Claim (unless the Particulars of Claim have been served out of the jurisdiction when a longer period may apply).

If the Defendant needs some more time to produce the Defence, or wishes to contest the court’s jurisdiction, the Defendant must file and serve an Acknowledgment of Service within 14 days of deemed service of the Particulars of Claim. The Defence and any Counterclaim must then be filed/served in accordance with the following time limits:

- within 42 days of deemed service of the Particulars of Claim, if it contains the Claimant's statement of compliance with the Practice Direction (Pre-Action Conduct) (see "*Before Issuing Proceedings*" above);
- within 70 days of deemed service of the Particulars of Claim if it does not contain the Claimant's statement of compliance with the Practice Direction (Pre-Action Conduct).

For further time limits, e.g. for filing Defences to Counterclaims and Replies, see CPR 63.22.

The parties are not permitted to extend the time limits set out in CPR 63.22 without the prior order of the court and for good reason. Applications for extensions of time must therefore be made before the time expires or as soon as possible afterwards and must set out clearly why they are required.

7.6 Contents of Particulars of Claim, Defence and Reply to Defence

The Claimant's Particulars of Claim, the Defendant's Defence and Counterclaim (if any) and any Replies of the parties are known as the "statements of case".

The parties must make sure that their statements of case set out their position in full, but they should not be unnecessarily long. They should set out briefly and accurately all the facts and arguments that the party wants to rely upon, so that the court and all the other parties understand what issues the court is being asked to decide.

A party may attach relevant documents to the statement of case, such as documents establishing any copyright or trade marks or screenshots evidencing the internet publication of a work where breach of copyright is claimed.

All statements of case should be signed with a statement of truth in the following words: "[I believe] or [The [party] believes] that the facts stated in this [*name of document being verified*] are true. I understand that proceedings for contempt of court may be brought against anyone who makes or causes to be made a false statement in a document verified by a statement of truth without an honest belief in its truth."

The statement of truth is to be signed by a person with knowledge of the facts alleged in the statement of case. If no one person has that knowledge, the statement is to be signed by those who between them have all the required knowledge (CPR 63.21).

7.7 Default Judgment

Please note that the court does not automatically initiate any step in the proceedings where the Defendant fails to acknowledge service or to file a defence. If the Defendant fails to respond to the claim within the time limits referred to above, the Claimant may apply to the court to enter default judgment against the Defendant for damages to be assessed by the court, by completing and returning the "Request for Judgment" form (form N227).

If the court is satisfied that the Claim Form and Particulars of Claim have been properly served on the Defendant and no Acknowledgment of Service or Defence has been filed, it will usually give judgment for the Claimant against the Defendant and give directions for damages to be assessed by the court and for other remedies (such as any application for a final injunction) to be considered by the court. The court will send out notification of the hearing and the directions to be complied with beforehand.

The Court will not enter default judgment unless the Claimant has filed with the Court a certificate of service of the Claim Form, the Particulars of Claim and the Response Pack. Unless the

certificate confirms that the defendant has been served in the manner and at an address permitted by the rules, judgment will not be entered. Care should be taken to consult the table at CPR 6.9 when completing the certificate of service.

7.8 Progress of the Case Once a Defence has been Filed

After a Defence has been filed at court, the court will send out an order containing directions for the management and progress of the case leading up to the trial. These directions will usually be issued without a hearing and will be based on the court's consideration of the Claim, Particulars of Claim and Defence. Exceptionally, it may set a preliminary hearing for the parties to attend at which an order for directions will be made. Preliminary hearings are likely to be heard remotely by video.

All orders for directions must be complied with by the parties by the dates specified.

The order for directions will set a timetable for each party to disclose relevant documents to the other parties, and for the evidence of any witnesses to be filed and served. It will include a date for the final hearing of the claim, unless all the parties have agreed that the claim can be decided by the judge without a hearing. In such a case, the order will give a date by which a written judgment will be made available. The court may make other directions as it considers appropriate.

In a small claim it is unusual for any party to issue an application seeking an order from the court before the final hearing. However, where an order is required (for example for permission to amend a statement of case) a formal application should be filed (on form N244). Unless the court directs otherwise, it is for the applicant to serve the sealed application on the respondent(s), who should file with the court and serve on the applicant a response within five business days of service. The applicant should file a certificate of service of the application with the court. This enables the court to deal with the application on paper once the deadline for responding has passed unless a hearing is necessary (see CPR 63.25).

7.9 Experts

No expert may give evidence at the final hearing of an IPEC SCT claim, whether written or oral, without the permission of the court. If experts are necessary, the claim is likely to be re-allocated to the IPEC multi-track or, rarely, the Patents Court.

7.10 Hearings

Some IPEC SCT hearings will be heard remotely (usually by video).

Hearings are open to the public, unless the court orders otherwise in exceptional circumstances. All hearings are tape recorded by the court. A party may obtain a transcript of an oral judgment given in a hearing on payment of a fee.

Any party may give the court and the other parties no less than 7 days' notice that he does not intend to attend the final hearing and to request the court decide the claim taking into account his statement of case and other documents. CPR 27.9 sets out the effect of giving the required notice and the potential effects of non-attendance without such notice, which may include striking out that party's case.

At an IPEC SCT final hearing, the judge may adopt any method of proceeding that he/she considers to be fair. This may include the judge asking questions of witnesses or limiting cross-examination of witnesses by others.

7.11 Court Fees

Fees are payable to the court by the Claimant when issuing a claim in the IPEC SCT and when the final hearing is fixed, and by a party who issues an application. There may be exemptions available depending on the payer's financial circumstances. *Guidance on Fees* is available on the website of the Ministry of Justice at www.justice.gov.uk here: Fees in the Civil and Family Courts – main fees (EX50) - GOV.UK (www.gov.uk).

If the hearing fee is not paid by the Claimant within the time specified in the Notice of Hearing, the claim will be automatically struck out by the court and the hearing date will be vacated (see CPR 3.7A1 (7)). If the claim is struck out in such circumstances, the Claimant will be liable for the costs and expenses the Defendant has incurred, as provided for in CPR 27.14 (see Section 8 below).

7.12 Small Claims Mediation and other Alternative Dispute Resolution

Like all civil courts, the IPEC SCT encourages parties to consider the use of Alternative Dispute Resolution (ADR), as an alternative means of resolving disputes or particular issues within disputes.

Parties to IPEC SCT cases may (or if required to do so, must) use ADR, including the **Small Claims Mediation Service** which is a FREE service provided by HM Courts & Tribunals Service (see Small claims mediation service - GOV.UK (www.gov.uk)). It may only be accessed after a claim has been issued. Mediation appointments are conducted by telephone and so the parties are not required to attend at court or at the mediators' offices. Parties can also mediate through the small claims mediator without speaking to one another.

The mediation appointment is:

- limited to one hour
- confidential
- only proceeds if both parties agree to mediation.

If mediation is unsuccessful then the parties will continue to a final hearing of their IPEC small claim as usual.

If you would like to arrange a mediation appointment with the Small Claims Mediation Service, contact HM Courts & Tribunals Service by telephone on 0300 1234593 or by email on scmreferrals@justice.gov.uk providing a return telephone number and your case number.

Further information about alternative forms of ADR can be found in the General IPEC Guide.

7.13 Settlement/Discontinuance of the Claim

The parties may settle the case by agreement between them at any time before judgment is given in the final hearing. A case in the IPEC SCT can be brought to an end before a final judgment either by the parties' agreement or the discontinuance of the proceedings by the Claimant.

If the parties reach a settlement agreement, it is important that they both notify the court as soon as possible.

Please note that the court will not remove the hearing from the court list (known as "vacating a hearing") on the basis of a letter from one party only. In addition, the court will usually not vacate the hearing unless it is satisfied that the parties have agreed what should happen in relation to the costs of the proceedings.

If the parties would like the terms of their agreement to be recorded in a court order, they will need to request the court to make a “consent order”. The benefit of a consent order is that in the event of one party breaching the agreement, the other party can enforce it in the same way as they can enforce any other order of the court.

The court should be notified by both parties of the following:

- that the case has settled;
- that the hearing on [date] is no longer required;
- if damages are to be paid, stating that [party] shall pay [party] the sum of [amount] [inclusive/exclusive of VAT, if applicable] by [payment date] (or by [x] monthly instalments of [amount], first instalment date being [date]) in full and final settlement of the claim;
- stating what has been agreed about the costs of the parties. This may be an order for one party to pay agreed costs of [amount] to the other by [payment date] OR it may be “no order for costs” (i.e. that each party is responsible for their own costs);
- any other terms that the parties have agreed which the court could order (e.g. for the return or destruction of infringing goods).

This notification may be made by sending the court a draft consent order or a letter containing the information, in each case signed by **both** parties, or by each party sending the court a signed letter containing the same terms of agreement.

Where the parties wish to agree terms that the court cannot order or where they wish to settle on agreed terms without a judgment being entered, they may wish to take advice on whether/how to submit a Tomlin Order for approval.

A case may also be brought to an end by the Claimant discontinuing the claim. Please see CPR 38 for the procedure to be followed in that case. CPR 38.6 should be particularly noted because filing a notice of discontinuance has a number of consequences in relation to the costs of the proceedings.

It is no longer the case that a hearing fee refund is available if a case is settled before the hearing.

8. Costs Recovery

The general principle that an unsuccessful party will pay the legal costs of a successful party does not apply to IPEC SCT claims.

In the IPEC SCT there are only very limited circumstances in which the court will order one party to contribute to the costs of another (CPR 27.14). These include:

- fixed sums in relation to issuing the claim;
- court fees (including the hearing fee);
- expenses which a party or witness has reasonably incurred travelling to or from a hearing or staying away from home for the purpose of attending the hearing;
- loss of earnings or loss of leave evidenced by a party or witness caused by attending a court hearing, limited to £95 per day for each person (PD 27 para 7.3);
- in proceedings which include a claim for an injunction, a sum for legal advice and assistance relating to that claim, not exceeding £260 (PD 27 para 7.2);

- not more than £750 for the fees of any/each expert;
- such further costs as the court may decide at the conclusion of the hearing should be paid by a party who has behaved unreasonably. A party's rejection of an offer of settlement will not of itself constitute unreasonable behaviour but the court may take it into consideration (CPR 27.14 (3)).

9. Paying Damages and Costs

All court-ordered or agreed payments for damages and costs should be paid directly to the receiving party and not the court. The paying party should ask the receiving party for details of where electronic payments and/or cheques should be sent.

10. Appeals

An appeal from a decision made by a district judge of the IPEC SCT should be made to an enterprise judge of the IPEC (CPR 63.19(3)).

An appeal can only be made with permission. A party should ask for permission to appeal from the district judge who made the decision, at end of the hearing in which the decision was made. If that district judge refuses permission, or if a party did not ask for permission at the hearing but wants to do so later, he should apply for permission to appeal to an enterprise judge within 21 days of the date of the decision he wishes to appeal.

Annex A – Contact details and email addresses for the IPEC small claims track

Enquiries relating to an IPEC SCT claim may be directed to:

Birmingham – Mark.Farley@justice.gov.uk (bpc.birmingham@justice.gov.uk)

Bristol – bristolspecialist@justice.gov.uk

Cardiff – bpc.cardiff@justice.gov.uk

Leeds – bpc.leeds@justice.gov.uk

Liverpool – Helen Sandison (LiverpoolBPC@justice.gov.uk)

London - IPECsmallclaimstrack@justice.gov.uk

Manchester – bpc.manchester@justice.gov.uk

Newcastle – NewcastleBPC@justice.gov.uk

The Judges are:

Manchester BPC-

DJ Obodai

DJ Woodward

DJ Ranson

Newcastle BPC-

DJ Malik

DJ Phillips

Liverpool BPC –

DJ Deane

DJ Johnson

Wales BPC –

DJ Jarman

DJ Keyser

Leeds BPC –

DJ Prest KC

Bristol BPC -

DJ Woodburn

Birmingham BPC -

DJ Talog-Davies

London –

DJ Wilkinson

DJ Revere

DJ Mauger

DJ Hart

Please note that Court staff cannot give legal advice or enter into prolonged correspondence. Please also note the obligation to copy emails or correspondence sent to the court to all other parties. Please see Appendix B.

Intellectual Property Enterprise Court Users Committee

The secretary to the IPEC Users Committee is currently:

Luke Maunder

Bristows

100, Victoria Embankment

London EC4Y 0DH

Tel: 0207 400 8000

Luke.Maunder@bristows.com

Other Resources

Copies of this Guide, the General IPEC Guide and other materials you may find useful are available on www.gov.uk.

Annex B – Tips for the Litigant in Person

This section is primarily aimed at those litigants using the IPEC SCT who have no previous experience of civil proceedings. It is in two parts: an explanation of commonly used terms and what to expect in your dealings with the court.

Commonly used terms

Consent Order	An order of the court that is agreed by the parties and approved by a judge.
Directions	An order of the court that sets out what the parties are required to do and by when.
Notice of Discontinuance	A notice by a claimant that they are not intending to pursue their claim.
File	A party ordered by the court to file a document or witness statement should send or deliver this to the court within the time stated in the order and in a manner permitted.
Injunction	A court order prohibiting a person from doing something or requiring a person to do something.
IPEC	'Intellectual Property Enterprise Court' and this is the option that must be chosen when choosing Manchester as your issuing court through CE Filing
Issue	A claim form or application must be issued before being served on the other party/ies. A fee is paid (unless fee exemption applies) and the claim form or application is sealed with a court stamp.
Privilege	The right of a party to refuse to disclose a document or to produce a document or to refuse to answer questions in certain circumstances.
Sealed	Stamped with the court's stamp.
Service	Formally sending a document to someone other than the court (usually the other party). The rules of service in CPR Part 6 apply, including dates of deemed service. If you are required to serve a document, please check whether you need to serve a sealed copy.
Set aside	An order cancelling a judgment or order
Statement of case	The Claim Form, Particulars of Claim, Defence, any Counterclaim and any Replies. In order to rely on the contents of a statement of case as evidence, it should be signed with a statement of truth in the form set out at paragraph 7.6 above.
Statement of truth	A confirmation that the content of a document is true. A witness statement should conclude with a signed and dated statement of truth, e.g.: "I believe the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement of truth without an honest belief in its truth."
Stay	A stay imposes a halt on a particular order or on the proceedings. This may be for a defined period or indefinite until revived by a court order.
Strike out	An order of the court deleting all or part of a statement of case, so that it may no longer be relied on.

Without prejudice	Negotiations and documents expressed to be without prejudice mean that their content may only be revealed to the court in very limited circumstances. Please do not include such documents in your bundle.
Without prejudice except as to costs	Negotiations and documents expressed to be without prejudice except as to costs mean that their content can be produced to a judge who is deciding whether one party should pay the other's costs. Please do not include such documents in your bundle.

What to expect in your dealings with the court

The Impartiality of the Court

It is a fundamental principle of justice in this country that the court must remain impartial as between the parties to a case. For this reason, neither the court staff nor the judges are able to give legal advice to any party. If you raise a query that the court declines to answer, this is often why. Section 6 of this document sets out some ways that you can obtain free legal advice and assistance.

Parties are under an obligation (see CPR39.8) to disclose to every other party all communications to the court on matters of substance or procedure, unless the communication is purely routine, uncontentious or administrative. (A request to adjourn should always be copied to the other party/ies).

In each written communication to the court you must identify to whom it has been copied or state the reason why it has not been copied. If you fail to comply with your obligations under CPR39.8, the court will (unless ordered otherwise) return the communication without considering it. Additional sanctions may also be imposed.

Please note that if you wish to rely on information (for example medical evidence) it will usually be necessary for that information to be provided to the other parties.

HMCTS staff are unable to provide guidance about whether or not a particular communication should be copied to the other parties.

Without prejudice correspondence and other privileged material

You should be particularly careful about sending the court material which is “without prejudice” or otherwise privileged. In the absence of legal advice about your particular circumstances, you should be cautious about disclosing such material to the court or (if it is not known to them) the other party/ies.

As a general principle, it is usually **not** appropriate to send the court details of settlement offers that have passed between the parties, but which have not resulted in an agreement to settle. It is often preferable to bring letters containing such offers to the hearing (rather than filing them in advance). The district judge dealing with the hearing will then be able to explore with the parties whether it can be relied upon without seeing it inadvertently.

Correspondence with the court

Please help the court to administer proceedings efficiently by:

- taking care to address your correspondence correctly;
- including the correct case number on everything you send to court;
- not sending duplicate copies of documents to the court, for example by fax and email and post. This contributes to delay;

- seeking orders and directions by the court by making an application, copied to the other parties, rather than in correspondence;
- seeking legal advice from legal advisors and sources of free legal advice and support rather than from the court;
- looking for the answers to your questions about procedure and practice in the CPR, this guide and the General IPEC guide rather than asking the court.

Distinguishing between correspondence and applications

The court staff and judges will not usually enter into correspondence with a party. There are, of course, times when you will have a purely administrative query for the court, but correspondence should generally be restricted to these matters. The district judges will not comment on decisions or revise orders as a result of correspondence, except in very limited circumstances (for example, if the correspondence points out a typographical error in an order).

If you wish the court to make or vary an order, you will usually need to issue a formal application (form N244) and to pay the appropriate fee. Common examples where correspondence is insufficient are:

- requests for the adjournment of a forthcoming hearing;
- a request that the other party/ies be required to take a step in the proceedings (e.g. to comply with the court's timetable of directions);
- if you wish to challenge a decision that has been made;

Most applications are “on notice”. This means that once you have issued your application with the court, you will have to serve a copy of the application notice and any supporting evidence on the other party/ies. You should file a certificate of service with the court to confirm how and when you served it.

If you are served with an application by another party, you should write to the court within 5 days of the date of service with your response. You should also send this to the other party/ies. If possible, the court will then determine the application without a hearing.

It is also not appropriate to “explain your case” to the court in correspondence. This should be done formally by particulars of claim or defence (as appropriate) and witness statement(s).

Follow the court's orders and timetable

This is one of the best ways to put your case before the court effectively. You should not assume that you will be able to rely on documents that are filed late.

If the court directs you to file a document, you will usually also be required to send a copy to the other party/ies. It is important that you do this without delay.

If you are unable to comply with the court's directions, you should make a formal application to the court for a variation in the timetable. The court is more likely to grant an extension of a deadline if you issue your application before the original deadline expires.

Annex C – Practice Note 7 June 2023

PRACTICE NOTE

IPEC SMALL CLAIMS TRACK

From 3rd July 2023 there will be a change in how cases filed in the Small Claims Track (SCT) of the Intellectual Property Enterprise Court (IPEC) will be processed.

From that date, all claims filed either on CE File or in person in London (at the Rolls Building) will be transferred to Manchester. They will be case managed by District Judges in the Manchester Civil Justice Centre. It is expected that most such claims which go to trial will have the trial heard either in person in Manchester or, where the parties prefer, by video link with the Manchester court.

Parties will have the right to apply to have a claim transferred from Manchester to any other court centre which hears IPEC SCT cases, including London. The relevant centres outside London are Bristol, Birmingham, Cardiff, Leeds, Liverpool and Newcastle.

It follows that IPEC SCT trials pursuant to a claim filed on CE File or in person at the Rolls Building from 3rd July 2023 will only be heard in London if transferred from Manchester. Claims will only be transferred to London for case management or trial if there are good reasons to do so, in particular where there is a need for a trial in person and potential difficulty in having a trial in Manchester.

There will be no change to IPEC SCT claims filed in any of the centres outside London. These will be case managed, and trials will be heard at the place of filing unless transferred elsewhere.

There will be no change to IPEC SCT claims filed before 3rd July 2023. Where filed on CE File or at the Rolls Building, they will be dealt with by District Judges of the County Court at Central London unless transferred elsewhere.

None of the foregoing affects claims filed in the IPEC Multi-Track.

Judge Hacon

Presiding Judge of the Intellectual Property Enterprise Court

7 June 2023