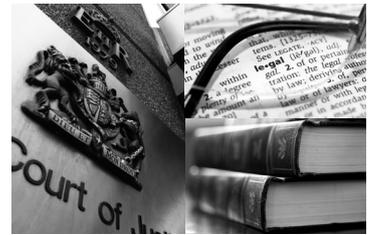


THE INTELLECTUAL PROPERTY COURT

The First 3 Months



On 1 October 2010, the procedures of the English junior intellectual property (IP) court were changed. These are the main points from the initial judgments that have been issued by the court under its new procedures.

- **The IP court is intended for small and medium-sized entities (SMEs)**

In a case relating to a patent on mechanical drug injection technology, the court clarified that the IP court is intended to serve companies with an annual turnover of up to \$60 Million (“micro, small and medium sized entities”). Its role is to provide “cheaper, speedier and more informal procedures” for IP claims, including trademarks, designs, copyright and patents, as well as ancillary claims, such as misuse of confidential information, or breach of contract.

- **Case management in a trademark case**

In a case relating to the infringement of trademarks and copyright owned by the British fashion designer Vivienne Westwood, guidance was given on the approach to case management in a trademark case in the IP court. In particular, the court gave its views on the admission into the proceedings of further information in documents and evidence, beyond that set out in the initial court briefs of the parties. The court adopted a cost/benefit analysis on an ‘issue by issue’ basis, allowing further evidence on some issues, whilst adopting a robust refusal on others. Directions were also given for the date of the trial, with an order that it should take place in approximately 3 months’ time – compared to approximately one year in the High Court – highlighting the speed of proceedings in the IP court.

- **The IP court cannot be used as a way of short circuiting due process**

In a case concerned with digital copyright infringement and peer to peer file sharing of pornographic films, the court affirmed – in a judgment that was given on the papers, i.e. without a hearing – that due process must be followed when invoking the IP court’s summary or default judgment procedures, so that a case must be properly and fully pleaded before summary or default judgment can be awarded.

This report is intended to be the first in a series of regular reports from Innovate Legal on developments in the IP court. For further information on any of the issues raised in this briefing, please don’t hesitate to contact Duncan Curley at duncancurley@innovatelegal.co.uk (for patent matters) or Garry Mills at garrymills@innovatelegal.co.uk (for trademark and copyright matters).

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1. Still called the Patents County Court.
2. Judgment of 9 November 2010: *Alk-Abello Limited v Meridian Medical Technologies Dey Pharma LP* [2010] EWPC 14.
3. Judgment of 19 November 2010: *Dame Vivienne Westwood OBE v Knight* [2010] EWPC 16.
4. Judgment of 1 December 2010: *Media C.A.T. Limited v various defendants* [2010] EWPC 17.