

CLA Evening Meeting

Title: **The Work of the Patents County Court**

Speaker: **His Honour Judge Colin Birss QC**

Date: **22 May 2012**

The following is a summary of the presentation given by His Honour Judge Colin Birss QC.

Background

- The Patents County Court (**PCC**) is a specialist IP court that offers claimants a more simplified and less costly forum than the High Court for patent, trade mark, copyright and design rights litigation.
- Although in existence since the 1980s, the PCC has experienced a surge of cases since the implementation of the new PCC rules (which are different from the High Court rules) in 2010.
- The new rules give claimants improved “access to justice”, by simplifying the legal procedure for IP disputes and by adding predictability to the losing party’s liability for legal costs.

The Advantages of the PCC

- The PCC distinguishes itself from the High Court by its simplified procedures, including the following:

1. *Fuller pleadings*

The PCC rules require claimants to serve fuller pleadings than are required in the High Court. This means that all relevant arguments and facts are pleaded at the start of case. This minimises the need for discovery and speeds up the trial process.

2. *More pro-active case management and increased judicial control*

All PCC cases must undergo a full review of the issues via a case management conference (**CMC**) conducted early on in a case. All actions or filings must be requested on an issue-by-issue basis. For example, there is no automatic disclosure for cases tried at the PCC, and the PCC will not issue an order for “standard disclosure.” Instead, a party must request disclosure on a particular issue. Similarly, a party cannot cross-examine a witness on any issues in the case. Instead, it must limit its cross-examination to authorised issues only.

The parties must follow the timetable set by the CMC closely; time extensions are rare. The CMC process also significantly reduces the duration of trials.

3. *Increased written applications*

Where possible, applications to the PCC are made in writing rather than by oral hearings, which should save the parties time and expense.

4. *Damages cap of £500,000*

The maximum damages amount recoverable in PCC cases is £500,000.

5. *£50,000 cap for recovery of legal costs*

Before the new PCC rules were implemented, a potential claimant may have decided not to bring an IP action because of the risk of paying the other party's unpredictable legal costs in the event the action was unsuccessful. This risk is reduced significantly under the new rules, which provide that the maximum amount of costs the PCC can award the prevailing party is £50,000.

Conclusion

The PCC is neither a small claims court, nor a court for multinational "mega" disputes. Instead, it is a forum for smaller IP cases and best serves SMEs (and, for example, independent inventors) that have legitimate IP claims, but who cannot afford the costs of protracted litigation in the High Court. Claimants and defendants both benefit from the PCC's streamlined procedures, the expertise of specialist IP judges or Recorders (deputy judges), and known maximum court-ordered costs and damages. In this manner, the PCC satisfies the needs of SMEs to have access to justice.