
STATUTORY INSTRUMENTS

2011 No. 2222

COUNTY COURTS, ENGLAND AND WALES

The Patents County Court (Financial Limits) (No. 2) Order 2011

Made - - - - *5th September 2011*
Laid before Parliament *9th September 2011*
Coming into force - - *1st October 2011*

The Lord Chancellor, in exercise of the powers conferred upon him by sections 1(1)(c), 1(7)(b) and 120 of the Courts and Legal Services Act 1990(1), and having consulted as required by section 1(9) of that Act, makes the following Order:

Citation and commencement

1. This Order may be cited as the Patents County Court (Financial Limits) (No.2) Order 2011 and shall come into force on 1st October 2011.

Interpretation

2. In this Order—

- (a) “the Act” means the Copyright, Designs and Patents Act 1988(2);
- (b) “legal representative” means a person who, for the purposes of the Legal Services Act 2007(3), is an authorised person in relation to an activity which constitutes the exercise of a right of audience or the conduct of litigation (within the meaning of that Act);
- (c) “patents county court” means a county court designated as a patents county court under section 287(1) of the Act; and
- (d) “relevant claim” means a claim for damages or an account of profits which—
 - (i) is one to which rule 63.13 of the Civil Procedure Rules(4) applies, but
 - (ii) does not relate to matters within the special jurisdiction of a patents county court under section 287(1) of the Act.

(1) 1990 c.41; section 1(7) was amended by the Constitutional Reform Act 2005, section 59(5) and Schedule 11 Part 2, paragraph 4(1) and (2); and section 1(9) by the Constitutional Reform Act 2005 section 15(1) and Schedule 4 Part 1, paragraphs 211 and 212(1) and (3).

(2) 1988 c.48; section 287 was amended by the Constitutional Reform Act 2005, section 15(1) and Schedule 4 Part 1, paragraphs 198 and 200(1) to (3).

(3) 2007 c. 29.

(4) S.I. 1998/3132, as last amended by S.I. 2011/88.

Financial limits

3.—(1) In proceedings in a patents county court relating to a relevant claim, the amount or value of that claim shall not exceed £500,000, subject to paragraph (3).

(2) In relation to a relevant claim in a patents county court, the county court limit is £500,000 for the purposes of section 17 of the County Courts Act 1984⁽⁵⁾ (which allows abandonment of part of a claim to give a county court jurisdiction).

(3) If the parties agree, by a memorandum signed by them or their respective legal representatives, that a patents county court shall have jurisdiction in proceedings in relation to a relevant claim, that court shall have jurisdiction to hear and determine the proceedings.

(4) In determining the amount or value of a relevant claim for the purposes of paragraphs (1) and (2), a claim for—

- (a) interest, other than interest payable under an agreement, or
- (b) costs,

shall be disregarded.

Transitional Provision

4. A patents county court has jurisdiction to hear and determine a relevant claim exceeding the limit imposed by article 3(1) where, before the coming into force of this Order—

- (a) the claim has been made in a patents county court,
- (b) the High Court orders the proceedings in which the claim has been made to be transferred to a patents county court, or
- (c) an application has been made to the High Court for transfer of the proceedings in which the claim has been made to a patents county court, and after the coming into force of this Order, the High Court orders the transfer of the proceedings to a patents county court.

Amendment

5. In the High Court and County Courts Jurisdiction Order 1991⁽⁶⁾, at the end of article 2(1), after the word “proceedings” insert “except as provided in relation to a patents county court by article 3 of the Patents County Court (Financial Limits) (No.2) Order 2011”.

Signed by authority of the Lord Chancellor

5th September 2011

J Djanogly
Parliamentary Under Secretary of State
Ministry of Justice

⁽⁵⁾ 1984 c.28; the definition of “the county court limit” in section 147(1) was amended by article 2(8) of, and the Schedule to, S.I. 1991/724.

⁽⁶⁾ S.I. 1991/724. There are relevant amendments in S.I. 1996/3141 and S.I. 2005/587.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order sets out the financial limits in relation to a claim for damages or an account of profits made in proceedings in a patents county court in England and Wales concerning relevant disputes over intellectual property rights such as copyright and trade marks. The Order does not apply in relation to proceedings falling within the special jurisdiction of a patents county court under section 287(1) of the Copyright, Designs and Patents Act 1988 which covers patents and designs. The financial limits relating to such proceedings are set out in the Patents County Court (Financial Limits) Order 2011 (S.I. 2011/1402).

Article 3(1) of this Order specifies that in proceedings in a patents county court relating to a relevant claim, the amount or value of the claim must not exceed £500,000. In calculating the amount or value of a relevant claim, any interest or costs claimed in the proceedings are not to be taken into account (article 3(4)).

Article 3(2) specifies the sum of £500,000 as the county court limit, as defined by section 147(1) of the County Courts Act 1984, for the purposes of section 17 of that Act. This latter section allows a claimant to abandon part of a relevant claim in excess of £500,000 to enable the action to be heard in a patents county court. Any damages the claimant receives will be in full and final satisfaction of his action.

Article 3(3) allows the parties to agree in writing to the jurisdiction of a patents county court to hear and determine a relevant claim in excess of £500,000 to the full value of the claim.

The Order also makes transitional provision, in the circumstances specified in article 4, to enable the patents county court to continue to hear and determine proceedings in which a relevant claim has been made for damages or an account of profits for an amount or value exceeding £500,000 (disregarding interest and costs).

Article 5 of this Order amends article 2(1) of the High Courts and County Courts Jurisdiction Order 1991 to reflect the amendments made to the financial limits in relation to relevant proceedings in a patents county court.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Copyright and IP Enforcement Directorate Room 3B49, Intellectual Property Office, Concept House, Newport, South Wales, NP10 8QQ and is published with the Explanatory Memorandum alongside the instrument on www.legislation.gov.uk