



Intellectual Property Enterprise Court (IPEC)

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What is IPEC?

The Intellectual Property Enterprise Court (IPEC) is a part of the UK High Court – but has a significantly simplified process, lower costs, and lower available damages.

It deals with all forms of intellectual property infringement, including:

- patent infringement,
- design infringement, and
- trade mark infringement.

What can IPEC Award a Patentee?

IPEC can grant injunctions (both interim and permanent) that have the same force as a standard High Court Injunction.

IPEC can also grant damages/account of profits for patent infringement. This is limited to a cap of £500,000. This is often enough – even for cases with a nominal value that slightly exceeds this number – as the injunctive relief is often significantly more important.

This is often the case if an infringement has only just begun.

Cost Considerations

- A key advantage of IPEC is its limited recoverable costs, which significantly reduce financial risk for litigants:
- Recoverable costs capped at £60,000, compared to unlimited costs in the High Court.
- This cap makes IPEC 10–20 times cheaper than a typical High Court action.
- If a claimant loses an action in the High Court, they may be liable for the other party's full legal costs. In IPEC, the capped recoverable costs significantly mitigate this risk.

How different is the process to the High Court?

- The initial Particulars of Infringement are generally more comprehensive and front loaded than standard High Court (this is also true for a defence and counterclaim). This is almost akin to a UPC case.
- Expert evidence is limited in scope – this significantly reduces cost.
- Disclosure is significantly limited in scope – this reduces costs markedly.
- A trial is normally limited to two days. Again, this keeps costs down.
- High Court has unlimited recoverable costs (short trial scheme pilot has £500,000).

Expected Costs

For IPEC £150000-£300000 is the norm depending on the complexity. This compares favourably to High Court proceedings where each party would normally expect attorney costs of at least £1million. IPEC is therefore around 5 times less expensive.

Patent attorneys have rights of audience in IPEC. This means that for the most cost adverse clients it is

possible to proceed without a barrister. For a simple one patent case with very limited expert evidence and disclosure, and with few active contentious points it would be possible to be close to £100000 for overall costs. This would not be typical (and would depend on the other sides conduct).

Timeline

A typical IPEC action can take place over 12-18 months. If there is need for expedition then the Courts have been successful in completing actions in less where the need arises.



Unified Patent Court (UPC) Tie-In

The Unified Patent Court (UPC) covers 18 EU states, but not the UK. However, there is a strong strategic overlap between UPC and IPEC cases:

- Both systems are based on the European Patent Convention (EPC), meaning similar legal principles apply.
- English is the primary language for both UPC and IPEC proceedings.
- Front-loaded procedures in both systems allow for cost-sharing – a UPC case can often

be adapted into an IPEC case with minimal additional expenditure.

- The UPC is fast, typically resolving cases within 12 months. A UPC ruling can often drive global settlements, and an accompanying IPEC action may further strengthen a patentee's negotiating position.
- If settlement is reached before an IPEC trial, overall costs can be significantly reduced while maximizing jurisdictional advantages.

Possible Outcomes

For a patentee the **best outcome** is an

- injunction,
- £500000 in damages, and
- £60000 in costs.

For a patentee the **worst outcome** is

- revocation of the patent,
- no injunction, and
- £60000 in costs awarded against them.

In both cases attorney fees would have to be paid.

Strategic Advantage for Patentees

This shows that IPEC is one sided and generally benefits the patentee. Defendants are often in a position where it is cheaper to settle than to take a case to court (even if they win!).



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