

STATUTORY INSTRUMENTS

1998 No. 3132

The Civil Procedure Rules 1998

[^{F1}PART 63

INTELLECTUAL PROPERTY CLAIMS

[^{F1}[^{F2}SECTION V

[^{F3}INTELLECTUAL PROPERTY ENTERPRISE COURT]

Textual Amendments

- F1** Pt. 63 substituted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009](#) (S.I. 2009/2092), rule 1(2), [Sch. 1](#)
- F2** Pt. 63 Section 5 inserted (1.10.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2010](#) (S.I. 2010/1953), rule 1(2), [Sch. 2](#)
- F3** Words in Pt. 63 heading substituted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013](#) (S.I. 2013/1974), rules 2, [26\(h\)](#)

Scope of this Section

63.17. This Part, as modified by this Section, applies to claims started in or transferred to [^{F4}the Intellectual Property Enterprise Court].

[^{F5}**63.17A.**—(1) In proceedings in the Intellectual Property Enterprise Court in which a claim is made for damages or an account of profits, the amount or value of that claim shall not exceed £500,000.

- (2) In determining the amount or value of a claim for the purpose of paragraph (1), a claim for—
- (a) interest, other than interest payable under an agreement; or
 - (b) costs,

shall be disregarded.

(3) Paragraph (1) shall not apply if the parties agree that the Intellectual Property Enterprise Court shall have jurisdiction to award damages or profits in excess of £500,000.]

Textual Amendments

- F4** Words in [rule 63.17](#) substituted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013](#) (S.I. 2013/1974), rules 2, [26\(i\)](#)
- F5** [Rule 63.17A](#) inserted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013](#) (S.I. 2013/1974), rules 2, [26\(j\)](#)

Transfer of proceedings

[^{F6}63.18.—(1) Rule 30.5 applies save for the modifications—

- (a) a judge sitting in the County Court or the general Chancery Division may order proceedings to be transferred to the Intellectual Property Enterprise Court; and
- (b) an application for the transfer of proceedings from the County Court or the general Chancery Division to the Intellectual Property Enterprise Court may be made to a judge sitting in the County Court or the general Chancery Division respectively.

(2) When considering whether to transfer proceedings to or from the Intellectual Property Enterprise Court, the court will have regard to the provisions of Practice Direction 30.]

Textual Amendments

F6 Rule 63.18 substituted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), rules 2, **26(k)**

[^{F7}Enterprise judges and [^{F8}District Judges]]

63.19.—(1) Subject to paragraph (2), proceedings in [^{F9}the Intellectual Property Enterprise Court will be dealt with by an enterprise judge.]

^{F10}(1A)

[^{F11}(2) Unless the court otherwise orders, the following matters will be dealt with by a [^{F12}District Judge]—

- (a) allocation of claims to the small claims track or multi-track in accordance with rule 63.27(3);
- (b) claims allocated to the small claims track; and
- (c) all proceedings for the enforcement of any financial element of an Intellectual Property Enterprise Court judgment.

(3) For the purposes of the Practice Direction 52A – Appeals: General Provisions, a decision of a [^{F12}District Judge] shall be treated as a decision by a [^{F12}District Judge] hearing a ^{F13}... claim in the County Court. An appeal from such a decision shall be heard by an enterprise judge.]

Textual Amendments

F7 Rule 63.19 heading substituted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), rules 2, **26(l)(i)**

F8 Words in Rules substituted (22.4.2014) by virtue of [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **4(a)(iv)**; S.I. 2014/954, art. 2(a)

F9 Words in rule 63.19(1) substituted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), rules 2, **26(l)(ii)**

F10 Rule 63.19(1A) omitted (3.10.2016) by virtue of [The Civil Procedure \(Amendment No. 3\) Rules 2016 \(S.I. 2016/788\)](#), rules 2, **12(a)**

F11 Rule 63.19(2)(3) substituted for rule 63.19(2) (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), rules 2, **26(l)(iv)**

F12 Words in Rules substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **4(a)(iv)**; S.I. 2014/954, art. 2(a)

F13 Word in rule 63.19(3) omitted (3.10.2016) by [The Civil Procedure \(Amendment No. 3\) Rules 2016 \(S.I. 2016/788\)](#), rules 2, **12(b)**

Statements of case

63.20.—(1) Part 16 applies with the modification that a statement of case must set out concisely all the facts and arguments upon which the party serving it relies.

(2) The particulars of claim must state whether the claimant has complied with paragraph [F14] of the Practice Direction (Pre-Action Conduct).

Textual Amendments

F14 Word in rule 63.20(2) substituted (6.4.2017) by [The Civil Procedure \(Amendment\) Rules 2017 \(S.I. 2017/95\)](#), rules 2, **11(1)**

Statement of truth

63.21. Part 22 applies with the modification that the statement of truth verifying a statement of case must be signed by a person with knowledge of the facts alleged, or if no one person has knowledge of all the facts, by persons who between them have knowledge of all the facts alleged.

Defence and reply

63.22.—(1) Rule 63.7 does not apply and Part 15 applies with the following modifications.

(2) Where the particulars of claim contain a confirmation in accordance with rule 63.20(2), the period for filing a defence [F15] where the defendant files an acknowledgment of service under Part 10] is 42 days after service of the particulars of claim unless rule 15.4(2) provides for a longer period to do so.

(3) Where the particulars of claim do not contain a confirmation in accordance with rule 63.20(2), the period for filing a defence [F16] where the defendant files an acknowledgment of service under Part 10] is 70 days after service of the particulars of claim.

(4) Where the claimant files a reply to a defence it must be filed and served on all other parties within 28 days of service of the defence.

(5) Where the defendant files a reply to a defence to a counterclaim it must be filed and served on all other parties within 14 days of service of the defence to the counterclaim.

(6) The periods in this rule may only be extended by order of the court and for good reason.

Textual Amendments

F15 Words in rule 63.22(2) inserted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), rules 2, **26(m)(i)**

F16 Words in rule 63.22(3) inserted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), rules 2, **26(m)(ii)**

Case management

63.23.—(1) At the first case management conference after those defendants who intend to file and serve a defence have done so, the court will identify the issues and decide whether to make an order in accordance with paragraph 29.1 of Practice Direction 63.

(2) Save in exceptional circumstances the court will not [F17] permit] a party to submit material in addition to that ordered under paragraph (1).

(3) The court may determine the claim on the papers where all parties consent.

Textual Amendments

F17 Word in rule 63.23(2) substituted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), rules 2, **26(n)**

Disclosure and inspection

63.24.—(1) Rule 63.9 does not apply.

(2) Part 31 applies save that the provisions on standard disclosure do not apply.

Applications

63.25.—(1) Part 23 applies with the modifications set out in this rule.

(2) Except at the case management conference provided for in rule 63.23(1), a respondent to an application must file and serve on all relevant parties a response within 5 days of the service of the application notice.

(3) The court will deal with an application without a hearing unless the court considers it necessary to hold a hearing.

(4) An application to transfer the claim to the [^{F18}Patents Court or general Chancery Division] or to stay proceedings must be made before or at the case management conference provided for in rule 63.23(1).

(5) The court will consider an application to transfer the claim later in the proceedings only where there are exceptional circumstances.

Textual Amendments

F18 Words in rule 63.25(4) substituted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), rules 2, **26(o)**

Costs

63.26.—(1) Subject to paragraph (2), the court will reserve the costs of an application to the conclusion of the trial when they will be subject to summary assessment.

(2) Where a party has behaved unreasonably the court [^{F19}may] make an order for costs at the conclusion of the hearing.

(3) Where the court makes a summary assessment of costs, it will do so in accordance with [^{F20}Section VII of Part 46].]

Textual Amendments

F19 Word in rule 63.26(2) substituted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), rules 2, **26(p)(i)**

F20 Words in rule 63.26(3) substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **28(1)** (with rule 1(3))

[^{F21}Allocation to the small claims track

63.27.—(1) A claim started in or transferred to [^{F22}the Intellectual Property Enterprise Court] will be allocated to the small claims track if—

- (a) rule 63.13, but not rule 63.2, applies to the claim;
- (b) the value of the claim is not more than [^{F23}£10,000];
- (c) it is stated in the particulars of claim that the claimant wishes the claim to be allocated to the small claims track; and
- (d) no objection to the claim being allocated to the small claims track is raised by the defendant in the defence.

[^{F24}(2)

(3) If either—

- (a) the requirements of rule 63.27(1)(a), (b) and (c) are satisfied, but in the defence the defendant objects to the claim being allocated to the small claims track; or
- (b) the requirements of rule 63.27(1)(a) and (b) are satisfied, but not (c), and in the defence the defendant requests that the claim be allocated to the small claims track,

the court will allocate the claim to the small claims track or the multi-track in accordance with Part 26 (case management – preliminary stage). [^{F25}For that purpose the court will send the parties a directions questionnaire and require them to file completed directions questionnaires and to serve them on all other parties within 14 days]

(4) Part 27 (small claims track) shall apply to claims allocated to the small claims track in [^{F26}the Intellectual Property Enterprise Court] with the modification to rule 27.2(1)(a) that Part 25 (interim remedies) shall not apply to such claims at all. [^{F27}Section VII of Part 46] (scale costs for claims in [^{F26}the Intellectual Property Enterprise Court]) shall not apply to claims allocated to the small claims track in [^{F26}the Intellectual Property Enterprise Court].]

Textual Amendments

- F21** Rule 63.27 inserted (1.10.2012) by [The Civil Procedure \(Amendment No.2\) Rules 2012 \(S.I. 2012/2208\)](#), rules 1, **10(c)**
- F22** Words in rule 63.27(1) substituted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), rules 2, **26(q)(i)**
- F23** Sum in rule 63.27(1)(b) substituted (1.4.2013) by [The Civil Procedure \(Amendment\) Rules 2013 \(S.I. 2013/262\)](#), rules 2, **19** (with rule 22)
- F24** Rule 63.27(2) omitted (1.10.2013) by virtue of [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), rules 2, **26(q)(ii)**
- F25** Words in rule 63.27(3) inserted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), rules 2, **26(q)(iii)**
- F26** Words in rule 63.27(4) substituted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), rules 2, **26(q)(iv)(aa)**
- F27** Words in rule 63.27(4) substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **28(2)** (with rule 1(3))

[^{F28}Extent to which rules in this Part apply to small claims

63.28.—(1) To the extent provided by this rule, this Part shall apply to a claim allocated to, or requested to be allocated to, the small claims track in [^{F29}the Intellectual Property Enterprise Court].

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998, Cross Heading: SECTION V. (See end of Document for details)

(2) Rules 63.1, 63.13, 63.18, 63.20, 63.21, 63.22, 63.25, 63.26(1) and (2), and 63.27 shall apply to the claim.

(3) No other rules in this Part shall apply.]]

Textual Amendments

F28 Rule 63.28 inserted (1.10.2012) by [The Civil Procedure \(Amendment No.2\) Rules 2012 \(S.I. 2012/2208\)](#), rules 1, **10(c)**

F29 Words in rule 63.28 substituted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), rules 2, **26(r)**

Changes to legislation:

There are currently no known outstanding effects for the The Civil Procedure Rules 1998, Cross
Heading: SECTIONV.