

Practice Statement: Listing of Cases for Trial in the Patent Court

Recently, the time which elapses between the date a patent case is commenced and the date it comes on for trial has been increasing to an unacceptable extent. In order to bring patent cases on for trial more quickly, and where possible within 12 months of the claim being issued, the following steps will henceforward be taken.

1. Chancery Listing will list patent cases as if there were three specialist patent judges rather than two. This will enable more cases to be listed within a particular period of time. This approach assumes that a sufficient number of cases will settle that a judge will be available to hear all cases which stand up, and in particular all category 4/5 cases. It creates the risk that a judge will not be available, however.
2. In order to mitigate that risk, Chancery Listing will aim to deploy Deputy High Court Judges to hear patent cases more frequently. To that end, the Court will attempt to identify cases which are suitable for trial by a Deputy at the first Case Management Conference.
3. Patent cases will be listed on the basis that the Listing Windows are assigned as follows: estimated hearing time (excluding pre-reading and preparation of closing submissions) up to 5 days; estimated hearing time (excluding pre-reading and preparation of closing submissions) 6 to 10 days; and estimated hearing (excluding pre-reading and preparation of closing submissions) over 10 days.
4. The Court will use its case management powers in a more active manner than hitherto, with a view to dealing with cases justly and at proportionate cost in accordance with CPR rule 1.1. This may have the effect of setting limits on hearing times that enable cases to be listed promptly. For example, the Court may direct that a case estimated at 6 days will be heard in 5 days, and may allocate time between the parties in a manner which enables that to be achieved.
5. Where it makes a significant difference to the time which cases must wait to be listed for trial and it will not cause significant prejudice to any party, cases may be listed without reference to the availability of counsel instructed by the parties.

These steps do not exclude the possibility of cases being expedited where expedition is warranted. Nor do they exclude the possibility of the parties opting for a streamlined procedure.

This Practice Statement is issued with the concurrence of the Chancellor of the High Court.

Arnold J
Judge in Charge of the Patents Court

28 January 2015