

1999 No. 1785 (S.109)

COURT OF SESSION, SCOTLAND

Act of Sederunt (Rules of the Court of Session Amendment No.6) (Causes Relating to Intellectual Property) 1999

Made

18th June 1999

Coming into force

12th July 1999

The Lords of Council and Session, under and by virtue of the powers conferred on them by section 5 of the Court of Session Act 1988((1) and of all other powers enabling them in that behalf, do hereby enact and declare:—

Citation and commencement

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Rules of the Court of Session Amendment No. 6) (Causes Relating to Intellectual Property) 1999 and shall come into force on 12th July 1999.

(2) This Act of Sederunt shall be inserted in the Books of Sederunt.

Causes relating to intellectual property

2.—(1) Chapter 55 (causes relating to intellectual property) of the Rules of the Court of Session 1994(2), shall be amended as follows.

(2) The judge known as the patents judge shall henceforth instead be known as the intellectual property judge; and accordingly, in each of rules 55.2, 55.14(1) and (2)(a), 55.15, 55.16(3) and 55.19(1) and (2)(a), for the words “patents judge”, wherever they occur (including in the heading to rule 55.2), there shall be substituted “intellectual property judge”((3)

(3) After rule 55.2 there shall be inserted—

“Requirement for marking

55.2A. In a cause to which this Chapter applies, initiated—

(a) by summons, the pursuer shall, before presenting the summons to the General Department for signeting;

(b) by petition, the petitioner shall, before lodging the petition in the Petition Department,

mark it distinctly in red, both on the first page and on the backing, with the words “Intellectual Property Cause”; and thereafter every step of process in the cause shall be so marked by the person lodging it.”

(4) In rule 55.3—

(a) for the heading and for paragraphs (1) and (2), there shall be substituted—

- **“Procedural hearings**

In a cause to which this Chapter applies, not later than five weeks after—

(a) if it is a cause initiated by summons, the closing of the record; or

(b) if it is a cause initiated by petition, the expiry of any period of adjustment allowed,

- (b) the pursuer or petitioner shall enrol a motion, which shall be put out unstarred, for a date to be fixed for a hearing in accordance with this rule (a “procedural hearing”); and after consultation with the intellectual property judge the Keeper of the Rolls shall fix a date accordingly and shall notify it to the parties.

Unless the parties have otherwise agreed, notification under paragraph (1) shall be given at least 14 days before the date so fixed.

Not later than 7 days after notification under paragraph (1) the parties may, having conferred with one another, jointly attend the Keeper of the Rolls that he may fix a different date, more convenient to them, for the procedural hearing.

To any motion enrolled by him under paragraph (1) the pursuer or petitioner shall append a note—

(a) identifying the points which he intends to raise, other than on a preliminary plea, at the procedural hearing; and

(b) giving his estimate of the likely duration of that hearing.”.

(b) in paragraph (3), for the words “pre-proof hearing”, there shall be substituted “date notified under paragraph (1)”; and

(c) in each of paragraphs (4) to (7), for the word “pre-proof”, wherever it occurs, there shall be substituted “procedural”.

(5) In rule 55.4(1) (notices to admit), for the word “pre-proof” substitute “procedural”.

Saving

3. Paragraph 2 does not affect the provisions of Chapter 55 in their application to work done, or outlays incurred, before 12th July 1999.

Rodger of Earlsferry Edinburgh, Lord President 18 June 1999. I.P.D.

EXPLANATORY NOTE

(This note is not part of the Act of Sederunt)

This Act of Sederunt amends the Rules of the Court of Session in their application to causes relating to intellectual property so as to require that any summons, petition or other document lodged in the cause is clearly marked as so relating. The Act of Sederunt also amends the provisions of those Rules as to the fixing

of what has been known as a pre-proof hearing and is now to be known as a procedural hearing; the main purpose of those amendments is to afford greater flexibility in fixing a date for that hearing.

Provision is made for the judge known as the patents judge to be known instead as the intellectual property judge.

(1)

[1988 c. 36](#); section 5 was amended by the Civil Evidence (Scotland) Act [1988 \(c. 32\)](#), section 2(3) and by the Children (Scotland) Act [1995 \(c. 36\)](#), Schedule 4, paragraph 45.

(2)

S.I. [1994/1443](#).

(3)

Rule 55.19 was inserted by S.I. [1994/2901](#).