

## CHAPTER 6

# APPEALS

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## 6 APPEALS

### INTRODUCTION

6.01 If an applicant disagrees with an *ex parte* decision, he can take the matter further by filing an appeal. *Inter partes* decisions can also be appealed.

#### Rules and appeal periods

6.02 Appeals relating to patents, Supplementary Protection Certificates (SPCs) and Design Right (subsistence/term/identity) are governed by Part 52 of the Civil Procedure Rules and the Practice Direction relating to Part 52. The statutory appeal period is 28 days with no discretion to direct a different period.

6.03 Appeals relating to Design Right Licence of Right cases are governed by the Registered Designs Appeal Tribunal Rules 1950. The appeal periods are:

- Procedural decisions: 14 days
- Substantive decisions: 6 weeks

6.04 Where a hearing has been held in Scotland and a decision is subsequently issued, different rules apply.

#### Where should an appeal be filed?

6.05 Appeals relating to patents and SPCs should be filed at the Patents Court, part of the High Court.

6.06 Design Right appeals relating to matters of subsistence, term and identity should be filed at the Chancery Division of the High Court.

6.07 Design Right Licence of Right appeals should be filed with the Registered Designs Appeal Tribunal.

6.08 If a decision is issued following a hearing in Scotland, an appeal may be filed with the Scottish Court of Session.

#### Extending the appeal period

6.09 An application to extend the appeal period must be filed directly with the court in all cases except for appeals to the Registered Designs Appeals Tribunal regarding Design Right - Licence of Right. In this case the comptroller may extend the appeal period but the request needs to be made prior to the expiry of the initial appeal period (see annexes 1 and 2).

#### Names of parties

6.10 The person who files the appeal is known as the appellant. The other side is known as the respondent.

#### How to file an appeal

6.11 For patents, SPCs and Design Right (subsistence/term/identity), two copies of a completed Notice of Appeal (Form N161) together with a fee of £200 must be filed at the High Court Appeals Office.

6.12 The Notice of Appeals form can be obtained from the:

High Court Appeals Office,  
Room WG7  
West Green Building  
Royal Courts of Justice  
Strand, London  
WC2A 2LL

Tel: 0207 947 7383

6.13 Design Right Licence of Right appeals are dealt with by the Registered Designs Appeal Tribunal. The contact address is as above.

### Additional actions by the appellant

- 6.14 The appellant needs to send a sealed copy of the Notice of Appeal to all the parties involved in the proceedings, including the comptroller, as soon as practicable and at least within 7 days of filing the appeal.
- 6.15 In Design Right Licence of Right appeals, the appellant needs to send a copy of the Notice of Appeal to the comptroller within 2 days of filing the appeal with the Registered Designs Appeal Tribunal.

### **CHECKLIST OF ACTIONS RELATING TO APPEALS**

- 6.16 A full checklist of actions that need to be carried out on receipt of an appeal is to be found at annex 3.

### **INITIAL ACTIONS ONCE NOTICE OF APPEAL RECEIVED**

#### A1 actions

- 6.17 When you receive a sealed copy of a Notice of Appeal, you need to:
- Check if the Notice of appeal relates to a PECS case. All cases after GB 0612194.1 will be PECS cases).
  - If it does, photocopy the Notice and pass the original version to the A3 to action.
  - Attach a request for indexing and scanning to the photocopied Notice and send to Index and Scanning section (doc code is NTC-OF-APP; team is Hearings).
  - If the Notice of Appeal doesn't relate to a PECS case, pass it to the A3 for further action.

#### A3 actions

- Check the Notice of Appeal has been sealed. A sealed document should contain a date stamp from the High Court worded "Supreme Court of Judicature". If the notice

has been sealed, the appeal may proceed.

- Obtain the proceedings file and/or patent application case file.
- Send an email or PECS message to the relevant HO to let them know that an appeal has been filed.
- If the appeal is in relation to an *ex parte* case, Counsel will need to be instructed. Fax the Notice of Appeal and any supporting documents to Andrew Prior at the Treasury Solicitors [Fax: 0207-210-3119]. This should be done immediately. The Treasury Solicitors will brief Counsel. Counsel will represent us at the appeal.

Note: For *inter partes* appeals it isn't necessary to fax documents to Andrew Prior as the comptroller is rarely represented in *inter partes* matters. Occasionally, however, the HO will advise that Counsel will be required.

- Update the excel hearings spreadsheet to show an appeal has been filed.
- Add a file note to the relevant file(s) as follows to show an appeal has been filed: 'Appeal to Patents Court filed on .....(insert date).
- Make a free text register entry on OPTICS (where appropriate) as follows: "Notice of Appeal against decision of the comptroller dated ..... (insert date) lodged with the Patents Court on ..... (insert date)".
- Advertise the appeal in the Journal: only where the office decision is Open to Public Inspection (OPI).( Full details of Journal entries can be found in Chapter 26).  
If the appeal relates to a review of an opinion, it should be advertised on the Office's web page. You should send the advert highlighted in red to Webmaster. You should check that the advert appears on the web page a week later.
- Copy the Notice of Appeal and any supporting papers and attach a circulation note (annex 4). The papers should then be circulated.

Note: The HO for the case should be first on the list. He/she will give you any additional instructions as appropriate. When the papers are returned to the section, you need to check if any additional instructions have been added and action as appropriate.

If the case is a PECs case, rather than send a circulation note, email those on the

list informing them an appeal has been filed.

- Where the case is a paper case, tag the Notice of Appeal and any supporting papers with an ID label, add the filing date and file the papers on the relevant file:

*Ex parte* appeals:                   The patents file on top of the decision

*Inter partes* appeals:               The proceedings file on top of the decision

**PECS:-** Create and send message to HO. Message = Appeal filed

File note is created in Microsoft ® Word and imported using manual import (doc code is FILE NOTE-LIT). Alternatively import a minute using PROSE.

Advert is created and imported using manual import (doc code is ADVERT)

Import email using manual import (doc code is EMAIL-LIT)

## **BRIEFING COUNSEL**

6.18     In *ex parte* cases, the comptroller will be represented by Counsel, instructed by the Treasury Solicitors.

6.19     In general, the comptroller will not wish to be represented in appeals relating to *inter partes* cases, though he may be represented in exceptional circumstances. (Intervener)

6.20     If Counsel is to be briefed, then he will need to see a copy of certain documents on file. You should:

- Check with Treasury Solicitors when they would like copies of the relevant documents sent to them (Tel: 020 7210 3411).
- Check with the Divisional Director (Litigation) which HO will be attending the appeal.
- Contact the relevant HO and request a) an Explanatory Memorandum and b) that the HO identifies the documents that should be sent to the Treasury Solicitors.
- Make a copy of the documents. If the case is a PECS case, this may involve printing from PECS.
- Place the documents in order, starting with the Notice of Appeal then the Office decision. These should be followed in descending date order by the most recent

document (the last usually being the patent specification).

- Tag and number the documents starting with the earliest and place in a binder. Document 1 should be the bottom document. The top document should be the Explanatory Memorandum provided by the HO followed by the Notice of Appeal.
- Tag and number the documents in the patent / proceedings file in line with those in the binder. The Explanatory Memorandum is NOPI.
- Type a list of the documents and include a head note indicating the nature of the case (see annex 5).
- Place a copy of the list on the patent / proceedings file, and on the binder
- Label the binder with the case details
- Send the binder with a letter (see annex 6) to the Treasury Solicitors.

Note: Inform Dispatch Section you wish to send a binder that contains **NOPI documents**. They will advise you of the appropriate postal service. If next day delivery is required, you need to inform Dispatch.

The binder should be addressed to:

Andrew Prior  
The Treasury Solicitors  
1 Kemble Street  
LONDON  
WC2B 4TS

If the appeal is withdrawn at short notice, the Treasury Solicitors will contact the HO due to attend the appeal.

- 6.21 If Counsel is not to be briefed, the patent file/proceedings file should be stored on the Appeals shelf in Litigation Section to await the Court date.

**Note: Correspondence to and from the Treasury Solicitors will generally be NOPI.**

## **AWAITING THE APPEAL DATE**

6.22 We will usually be informed of the date of the appeal by the Patents Court. Occasionally we will be informed by the Treasury Solicitor. However you need to:

- Monitor the date of appeal by checking the Court Service website. The address is:

[www.hmcourts.service.gov.uk](http://www.hmcourts.service.gov.uk) – click on “Court Hearings” – click on “Patents Court Diary” – click on “Diary Section 1”

- Contact the court for information. Our contact at the Patents Court is Sam Stevens

E-mail: [Sam.stevens@hmcourts-service.gsi.gov.uk](mailto:Sam.stevens@hmcourts-service.gsi.gov.uk)

Tel: 020 7947 6000

It is advisable to e-mail the court as the clerks are very busy and are rarely available to answer telephone calls.

## **ONCE THE DATE OF THE APPEAL IS KNOWN**

6.23 Initially a window of three days may be allocated by the court for the hearing of the appeal. You need to:

- Inform the HO and HA and any other interested party in the Office once the window is known
- Liaise with the court on a regular basis to obtain a firm date for the appeal. Check the listings on the Court Service web site or telephone Chancery Listings (Tel: 0207 947 7383). The exact courtroom and time may not be known until the day before the appeal but once they are known, you will need to inform the HO and HA and any other interested party in the Office

Note: The time of the appeal may be found on the Court Service

website. The court room number will depend on who is hearing the case

- Update the hearings spreadsheet with the appeal date.
- Create a file note as follows: “Appeal to be held on ..... (insert date)” and add to the appropriate file.
- Enter date of appeal in your electronic diary.
- Enter reminder in electronic diary to send patent file to Harmsworth House.
- Before sending the file, check it is in order and mark and label all NOPI documents.
- Send the file to the Hearings Clerk at Harmsworth House with a minute explaining the case has been appealed and that the file should be taken to the High Court at least one day before the appeal is to be heard
- Check with the High Court whether bundles have been filed. If they haven't, contact Andrew Prior at the Treasury Solicitors and inform him.

**PECS:-** File note is created in Word and imported using manual import (doc code is FILE NOTE-LIT)

## **AFTER THE APPEAL HEARING**

6.24 Following the appeal hearing, you should:

- Diary the case for one month to await the return of the file from the Court and a copy of the Court Judgment and Court Order.

Note: If the file is required earlier, contact Chancery Listings (Tel: 0207 947 7383) and arrange for it to be collected by one of the London Hearings Clerk.

### A1 actions

On receipt of the Court Judgment and Court Order you need to:

- Check if the Court Judgment and Court Order relate to a PECS case.

- If they do, photocopy the Court Judgment and Court Order and pass to the A3 to action.
- Attach a request for indexing and scanning to the photocopied Court Judgment and Court Order and send to Index and Scanning section (doc code is CRT-JDGMT, CRT-ORDER; team is Hearings).
- If the Court Judgment and Court Order doesn't relate to a PECS case, pass to the A3 for further action.

### A3 actions

On receipt of the Court Judgment and Court Order, you need to:

- Place the Court Judgment and Court Order on the patents file (OPI) and pass the file immediately to the HO.
- On return from the HO, action any other instructions and circulate the Court Judgment and Court Order (see annex 8). Even if the appeal has been withdrawn, the papers must still be circulated. When the file reaches the B3, she will review the Order and will make an appropriate register entry on OPTICS.
- Prepare a Journal based on the register entry by the B3 (see annex 9).

For PECS cases:

- File the Court Judgment and Court Order in the Appeals folder
- Send a message to the appropriate HO informing them that the Court Judgment and Court Order has been received
- Email those on circulation list (see annex 8) informing them that Court Order and Court Judgment have been filed. As with a paper based case, the B3 will review the Order and will make an appropriate register entry on OPTICS.
- Prepare a Journal advert based on the register entry by the B3 (see annex 9).

**PECS:-** Create and send message to HO. Message = see Court Judgment or see Court Order

Import email using manual import (doc code is EMAIL-LIT)

Advert is created and imported using manual import (doc code is ADVERT)

6.25 The Court Judgment may grant a party leave to appeal to the Court of Appeal. However, if leave to appeal is not granted, a party may still approach the Court of Appeal directly and request leave to appeal.

6.26 Only when you are able to conclude that no appeal has been filed, should the case proceed to the clear records stage. (See Chapter 5 & Chapter 27)

## **COURT OF APPEAL**

6.27 If an appeal has been refused, the appellant may wish to take the matter further. For patent cases, this may mean filing an appeal at the Court of Appeal. Permission to appeal must be obtained either from the Patents Court judge. If he refuses to grant leave to appeal, the appellant may apply directly to the Court of Appeal for permission to appeal. For design right cases, leave to appeal from the decision of the High Court must be obtained from the Court of Appeal.

## **INITIAL ACTIONS ONCE NOTICE OF APPEAL TO COURT OF APPEAL RECEIVED**

### A1 actions

6.28 When you receive a sealed copy of a Notice of Appeal to the Court of Appeal you should:

- Check if the Notice relates to a PECS case
- If it does, photocopy the Notice of Appeal and pass to the A3 to action
- Attach a request for indexing and scanning to the photocopied Notice and send to Index and Scanning section (doc code is NTC-OF-APP; team is Hearings; annotate "Appeal to Court of Appeal")
- If the Notice of Appeal doesn't relate to a PECS case, pass direct to the A3 for further action.

### A3 action

- Update the excel hearings spreadsheet to show an appeal has been filed at the Court of Appeal
- Add a file note to the relevant file(s) as follows to show an appeal has been filed: 'Appeal to the Court of Appeal filed on .....(insert date).
- Make a free text register entry in OPTICS (where appropriate) as follows: "Notice of Appeal against decision of the High Court dated ..... (insert date) lodged with the Court of Appeal on ..... (insert date)".
- Advertise the appeal in the Journal. [Full details of Journal entries can be found in Chapter 26]. Advertise any appeal from a review on the Office's web page. You should send the advert highlighted in red to Webmaster. You should check that the advert appears on the web page a week later.
- Send an email or PECS message to the relevant HO to let them know that a further appeal has been filed
- Copy the Notice of Appeal and any supporting papers and attach a circulation note (see annex 4) and circulate as before. If the case is a PECS case, rather than send a circulation note, send an email.
- Contact the parties or the Registry at the Court of Appeal (Tel: 0207 947 7882) to obtain a date for the Court of Appeal hearing since we will not always be told unless we are a party to the proceedings.
- Check the file at monthly intervals and record the state of play on the minute sheet
- Inform all interested parties in the Office of any developments
- Liaise with the Court of Appeal as to procedure

**PECS:-** File note is created in Word and imported using manual import (doc code is FILE NOTE-LIT)

Advert is created and imported using manual import (doc code is ADVERT)

Create and send message to HO. Message is "Appeal filed at Court of Appeal"

Import email using manual import (doc code is EMAIL-LIT)

- 6.29 The file will not be required by the Court of Appeal so should be kept in Litigation Section.

- 6.30 On receipt of the Judgment and Order from the Court of Appeal, follow the procedures outlined above for appeals to the High Court (see 6.24).
- 6.31 The Court Judgment may grant a party leave to appeal to the House of Lords. However, if leave to appeal is not granted, a party may still approach the House of Lords directly and request leave to appeal.
- 6.32 Only when you are able to conclude that no appeal has been filed, should the case proceed to the clear records stage. (See Chapter 5 & Chapter 27)

### **APPEAL TO THE COURT OF APPEAL AGAINST AN ORDER OF THE HIGH COURT FOR REVOCATION OF A PATENT (CPR PART 52 Practice Direction PARAGRAPH 21.2**

- 6.33 Where an appeal lies to the Court of Appeal from an Order for revocation of a patent, the appellant must send a copy of the Notice of the Appeal to the other side (the respondent) and also to the comptroller. If the respondent decides not to oppose the appeal or to attend the appeal hearing, he must serve a notice of that decision (together with the other papers in the Appeal) on the comptroller.
- 6.34 On receipt of the Notice from the respondent, you should:
- Contact the HO and enquire whether he will be attending the appeal hearing
  - Within 14 days of receipt of the Notice, send a letter to the appellant advising him whether the comptroller will be attending the hearing (see annex 7)

**PECS:-** Import letter using manual import (doc code is LETTER-LIT)

- 6.35 The comptroller may attend the appeal hearing and oppose the appeal in any Case where he has written to the appellant informing him that he will be attending the appeal and in any other case (including a case where the respondent withdraws his opposition to the appeal during the hearing) if the

Court of Appeal directs or permits.

## **HOUSE OF LORDS**

- 6.36 The procedure will be similar to that for Court of Appeal hearings, except that all contact will be made with the Offices of the House of Lords (Tel. 0207 219 3111) and normally the HO and HA will attend the sitting. (NB. A special pass will be needed to gain access to the House of Lords). If at any time before the hearing of the appeal the respondent(s) decide not to enter appearance on the appeal or to oppose it, they may be required to serve notice on the comptroller and the appellants.

### Leapfrog procedure

- 6.37 Where in any proceedings in the High Court a person appeals or seeks permission to appeal to a court other than the Court of Appeal, that person must obtain a "leapfrog" certificate in order to bypass the Court of Appeal and appeal directly to the House of Lords. The relevant conditions are that a point of law of general public importance is involved in the judge's decision. (House of Lords Practice Direction section 16: the 'blue book'). An application for a certificate may be made by any of the parties to any civil proceedings in the High Court. The application should be made immediately after the trial judge gives judgment in the proceedings. The judge may grant a certificate if he is satisfied that the relevant conditions are fulfilled and that all parties consent to the grant of a certificate. Notice of intention to present an appeal, with a copy of the petition to appeal, must be served on the comptroller as well as on the respondents. When a respondent does not wish to appear before the House of Lords in appeal proceedings, the Office may wish to make representations to the House of Lords with regard to their views on the proceedings. Under section 40 of the House of Lords Practice Direction applicable to civil appeals, when a respondent does not intend to appear in the House of Lords proceedings, they must without delay serve notice of their decision to the comptroller and supply a copy of the pleadings in the proceedings. On receipt of the respondent's notice the comptroller must within 14 days of receipt lodge a notice with the House of Lords stating whether the Office intends to appear in the proceedings

## **JUDICIAL REVIEW**

6.38 Judicial review is another route by which decisions of the comptroller can be challenged. (For example, *B Knight v Comptroller* [2007] EWHC 2264). Applications for judicial review are dealt with in the High Court and require leave (permission) of the court. The court will not normally grant leave where there is another avenue of appeal.

6.39 The initial procedures are generally similar to those for *ex parte* appeals.

## **INITIAL ACTIONS ON RECEIPT OF APPLICATION FOR JUDICIAL REVIEW**

### A1 action

6.40 When an application is received you should:

- Check if the application relates to a PECS case
- If it does, photocopy the application and pass to the A3 to action
- Attach a request for indexing and scanning to the application and send to Index and Scanning section (doc code is .....; team is Hearings)
- If the application doesn't relate to a PECS case, pass to the A3 for further action.

### A3 actions

- Notify the relevant HO immediately and enquire whether the documents received should be faxed to the Treasury Solicitor.
- Update the Excel spreadsheet to show that a judicial review has been filed
- Make a free text register entry on OPTICS as follows: "Application for judicial review lodged with the Patents Court on ....."
- Advertise the application in the Journal
- Ensure you take regular instruction from the HO

**PECS:-** Advert is created and imported using manual import (doc code is ADVERT)

When the review is finalized, you should:

- Update the excel hearings spreadsheet with the outcome and add a file note to the file
- Make a register entry and prepare and arrange an advert for the Patents & Designs Journal. The B3 will advise.

**PECS:-** File note is created in WORD and imported using manual import (doc code is FILE NOTE-LIT)

Advert is created and imported using manual import (doc code is ADVERT).

**ANNEX 1**  
**(Design Right - Licence of Right Only)**

\*\*\*\*\*

c/o

**Patents Directorate**  
**Concept House**  
**Cardiff Road**  
**Newport**  
**South Wales NP10 8QQ**

**Direct Line:** 01633 81\*\*\*\*  
**E-mail:** xxxxxx.xxxxxx@ ipo.gov.uk  
**Switchboard:** 01633 814000  
**Fax:** 01633 814491  
**Minicom:** 08459 222250  
**DX:** 722540/41 Cleppa Park 3  
**internet:** <http://www.ipo.gov.uk>

**Your Reference:**

Our Reference: Rm 3Y31/name/file reference

Date

Dear Sir

.....: **Application by .....** under **Section 247 of the Copyright, Designs and Patents Act 1988**

1. In reply to your letter of the ....., the Office is prepared to grant an extension of ..... to lodge an appeal against the Office Decision dated.....
2. The period for appeal, taking into account the extension, now expires on .....
3. Except with leave of the Registered Designs Appeal Tribunal, no further extension may be granted.
4. A copy of this letter, together with yours, has been sent to the Registered Designs Appeal Tribunal.

Yours faithfully

*Your Name*  
Litigation Section  
Patents Directorate

**ANNEX 2**  
**(Design Right - Licence of Right Only)**

Registered Designs Appeal Tribunal  
Royal Courts of Justice  
The Strand  
LONDON  
WC2A 2LL

**Patents Directorate**  
**Concept House**  
**Cardiff Road, Newport**  
**South Wales NP10 8QQ**

**Direct Line:** 01633 81\*\*\*\*  
**Email:** \*\*\*\*\*@ipo.gov.uk  
**Switchboard:** 01633 814000  
**Fax:** 01633 814491  
**Minicom:** 08459 222250  
**DX:** 722540/41 Cleppa Park 3  
**internet:** <http://www.ipo.gov.uk>

**Your Reference:**  
**Our Reference: 3Y31/Name/File Reference**

Dear Sir

**Reference..... under Section .... by .....**

1. I refer to the decision of the comptroller dated ..... and the enclosed letters relating to the matter of an appeal to the decision.
2. An extension has been granted until ..... for the ..... to lodge their appeal with the Registered Designs Appeal Tribunal.

Yours faithfully

*Your Name*  
Litigation Section  
Patents Directorate

Enc.

## ANNEX 3

# APPEALS CHECKLIST

### URGENT ACTION

<b>Notice of Appeal received</b>		
<b>Is case PECS case?</b> <input type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>		
<b>1</b>	Is the notice properly sealed? No – appellant contacted Yes – file located, copied and put on file	
<b>2</b>	Has the notice been filed in time? No – court/appellant contacted Yes – continue	
<b>3</b>	Email HO with details of appeal	
<b>4</b>	If inter partes case, has HO given directions to instruct counsel? No – go to 6 Yes – continue If ex parte case, counsel should be instructed – proceed with action 5	
<b>5</b>	<b>All ex parte cases</b> & in rare inter partes cases Notice of appeal & supporting docs <b>faxed same day</b> to Andrew Prior	
<b>6</b>	NOPI folder for TSols correspondence made & inserted in main file (after minute sheets) if not PECS case	
<b>7</b>	Details of appeal recorded on hearings spreadsheet	
<b>8</b>	File/proceedings file & Hearings folder minuted	
<b>9</b>	Optics checked for decision entry & updated with appeal lodged	
<b>10</b>	PDJ notice prepared	
<b>11</b>	Circulated copy (notice of appeal & decision)	
<b>12</b>	Action taken from HO minute/instruction	
<b>13</b>	Is counsel to be briefed? No – put file on appeals shelf & go to 21 Yes – continue	
<b>Briefing Counsel</b>		
<b>14</b>	Parts of file copied as instructed by HO	
<b>15</b>	Documents placed in order	
<b>16</b>	Documents & proceedings file labeled	
<b>17</b>	Documents listed	
<b>18</b>	Documents placed in binder and binder labeled	
<b>19</b>	Covering letter (Annex 5 of manual) prepared & copy put on patent file	
<b>20</b>	Letter & binder sent to Andrew Prior	
<b>Obtaining Hearing Date</b>		
<b>21</b>	Monitor court website or email court for date of appeal hearing	

## Date of Appeal Known

22	HO, HA & other interested parties informed & calendars updated	
23	Spreadsheet updated	
24	File/proceedings file & Hearings folder minuted	
25	Electronic diary updated with the appeal date	
26	Appropriate arrangements made for attendee(s)	
	If routine inter partes go to 31 If ex parte continue	
27	Reminder put in the electronic diary to send file	
28	File checked	
29	File sent to Harmsworth House	
30	Have bundles been submitted? No – contacted Andrew Prior Yes - no action	
31	Courtroom & time obtained, attendees informed	

## After the Appeal Hearing

32	File received	
33	Judgement/order received copied & put on file	
34	Spreadsheet updated	
35	Circulated	
36	Optics updated	
37	PDJ notice prepared	
38	Action taken from HO minute/instruction	
39	Notice of Appeal to the Court of Appeal received? No – clear records Yes – continue	

## Court of Appeal

40	Notice copied & put on file	
41	Spreadsheet updated	
42	Circulated	
43	Optics updated	
44	PDJ notice prepared	
45	Date obtained	
46	HO , HA & other interested parties informed	
47	Appropriate arrangements made for attendee(s)	

## After the Court of Appeal Hearing

48	Judgement/order received copied & put on file	
49	Spreadsheet updated	
50	Circulated	
51	Optics updated by B3	
52	PDJ notice prepared	
53	Action taken from HO minute/instruction	
54	Appeal to the House of Lords No – clear records	

	Yes – continue	
<b>House of Lords</b>		
<b>55</b>	As above 40 – 53 NOTE: HO & HA will normally attend so arrange passes	
<b>Judicial Review</b> - refer to Litigation Manual		

## ANNEX 4

### **APPEAL LODGED**

**Name of part(y)ies:**

**Patent Number(s):**

**A notice of Appeal was lodged with the Patents Court on ..... against the decision of the Hearing Officer dated ..... ..**

**The Appeal will be heard on .....**

**OR**

**AMEND as appropriate**

**The Appeal date needs to be confirmed**

1) HO Rm number

Please advise by email if Counsel is to be briefed and if so, please provide an Explanatory Memorandum

2) Divisional Director Rm Number

3) Divisional Director Rm Number

4) Divisional Director Rm Number

5) B3 Rm Number

6) C2 Rm Number

7) Litigation Section Manager Rm Number

8) Hearings Team Rm Number

## ANNEX 5

**Patent Application Number GB ..... ((name).....)**

A notice of appeal against the decision dated ....., whereby the comptroller refused the application under Section ..... of the..... Act....., was lodged with the ..... Court on ..... The date of the appeal hearing has not yet been finalised.

Please find enclosed the following documents for reference:

An explanatory memorandum prepared by the Patent Office for the comptroller's Counsel and the associated pages of the Manual of Patent Practice.

A numbered set of papers for Counsel relating to the proceedings .

(NB The following is an example of the sort of documents that might be included)

1. Official letter dated 1 February 2006.
- 3 Official letter dated 25 February 2006.
4. Letter from Mr Aaaaaa received 2 March 2006.
7. Official letter to Mr Aaaaaa dated 15 March 2006.
8. Letter from Mr Aaaaaa received 22 March 2006.
9. Official letter dated 23 March 2006.
12. Letter from Mr Aaaaaa received 5 May 2006.
13. Official letter to Mr Aaaaaa dated 12 May 2006.
14. Letter from Mr Aaaaaa dated 14 May 2006.
15. Official letter to Mr Aaaaaa dated 20 May 2006.
24. Office decision dated 29 June 2006 and transcript of hearing dated 1 June 2006
25. Notice of appeal dated 5 July 2006.
26. Explanatory Memorandum dated 29 July 2006 and accompanying background information

## ANNEX 6

Mr A Prior  
c/o The Treasury Solicitor  
1 Kemble Street  
LONDON  
WC2B 4TS

**Patents Directorate  
Concept House  
Cardiff Road Newport  
South Wales NP10 8QQ**

**Direct Line:** 01633 xxxxxx  
**E-mail:** [xxxxxxxxx@ipo.gov.uk](mailto:xxxxxxxxx@ipo.gov.uk)  
**Switchboard:** 01633 814000  
**Fax:** 01633 814491  
**Minicom:** 08459 222250  
**DX:** 722540/41 Cleppa Park 3  
**internet:** <http://www.ipo.gov.uk>

**Your Reference:**  
**Our Reference: 3Y31/Name/ File Reference**

Dear Mr Prior

**Appeal** -.....

1. Please find a copy of the papers relating to the above appeal.
2. The Hearing Officer/examiner (xxxxxxx) would like to draw your attention to:  
(xxxxxxxxxxxxxxxxxxxx).
3. xxxxxxxx will be attending the hearing for the Office.

Yours faithfully

Name(Hearings Clerk)  
Litigation Section  
Patents Directorate

## ANNEX 7

\*\*\*\*\*

c/o

**Patents Directorate  
Concept House  
Cardiff Road, Newport  
South Wales NP10 8QQ**

**Direct Line:** 01633 81\*\*\*\*  
**E-mail:** xxxxx.xxxx@ipo.gov.uk  
**Switchboard:** 01633 814000  
**Fax:** 01633 814491  
**Minicom:** 08459 222250  
**DX:** 722540/41 Cleppa Park 3  
**internet:** <http://www.ipo.gov.uk>

**Your Reference:**  
**Our Reference: 3Y31/Name/Your Reference**

Dear Sirs

**Patent number.....**

1. Thank you for your letter dated .....
2. The Comptroller will/will not be attending the appeal hearing (*Delete as appropriate*)

Yours faithfully

Name  
Litigation Section  
Patents Directorate

## ANNEX 8

### APPEAL HEARD

The Appeal was heard on ..... in the .....  
regarding the decision of the Hearing Officer dated ..... Please see  
copy of Order/Judgement attached.

- 1) HO: ..... Room: .....
- 2) B3 Room: .....  
(Action Register Entry)
- 3) Hearings team Room .....  
(Action Journal Advert, hearings spreadsheet)
- 4) HA: ..... Room: .....
- 5) Divisional Director (if not HO) Room: .....
- 6) Divisional Director (if not HO) Room: .....
- 7) Divisional Director (if not HO) Room: .....
- 8) Deputy Director (inter partes team) Room: .....
- 9) Deputy Director (inter partes team) Room: .....
- 10) Deputy Director (inter partes team) Room: .....
- 11) Deputy Director (inter partes team) Room: .....
- 12) Editor MOPP Room: .....
- 13) Litigation Manager Room: .....
- 14) Hearings Team Room: .....

**ANNEX 9**

**(Example of the wording for a Journal entry)**

**Appeals to the Patents Court**

**Appeal Dismissed**

**GB \*\*\*\*\***

**\*\*\*\*\***

**In an Order of the Court dated....., the appeal against the decision of the  
Comptroller dated .....was dismissed**