





## Fast and cost-effective

A UK IP case can come to trial within 12 months of filing a claim. Major patent cases last for 5 to 10 days. Costs are proportionate to the value of the dispute – successful parties can recover their costs from the losing parties.

For urgent cases, a trial can be fixed within 2 to 3 weeks of the claim. Lower value trials can be completed within 1 to 2 days, and costs capped.

*Idenix Pharmaceutical, Inc v Gilead Sciences Inc, et al:* a multi-disciplinary patent case came to trial in 7 months, based on a claim issued within hours of the HCV-related patent being granted. A fully-reasoned (over 200 page) judgment was issued in about 6 weeks.

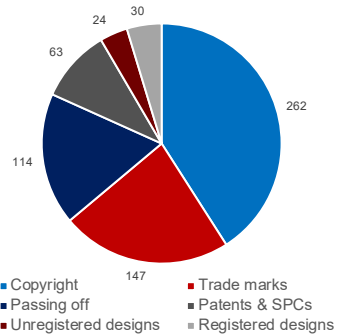
*Frank Industries v Nike:* trade mark and passing off claims were made. A post-trial full judgment issued 6 months later.

UK decisions are often influential in overseas courts, and UK litigation can provide a basis for international case settlements, potentially resulting in further cost-savings.

## Highly experienced

UK courts and judges deal with substantial numbers of cases at all levels, covering (inter alia) patents, trade marks, designs, copyright and passing off, often in the same action. Many involve EU rights, and post-Brexit would involve equivalent rights:

Number of cases issued in 2016 by IP right



## Specialist courts and judges

There are no jury trials in UK IP courts, and there is a choice of court, depending on the value of the claim and its complexity (judges are also selected according to complexity):

Court	Case type	Notes
High Court/ Patents Court	Major cases, range of technologies and IP rights, highly experienced judges (e.g. over 25 years in litigation)	ALL courts hear infringement and validity together, saving costs versus separate actions
IPEC (Intellectual Property Enterprise Court)	Up to £500,000 damages. Costs (payable by liable loser to winner and) capped at £50,000 for liability trial	SME focus, but can include significant cases, e.g. delivery system for Humira (arthritis medicine)
IPEC - Small claims	Up to £10,000 damages	Trade mark, copyright or unregistered design right

Injunctions are the usual remedy where infringement is established and full compensatory damages or an account of profits are awarded; 'additional damages' can be awarded for flagrant infringement. Interim injunctions and negative declarations are possible. The UK courts have developed flexible remedies, including in FRAND disputes.

## Established alternatives for resolving disputes

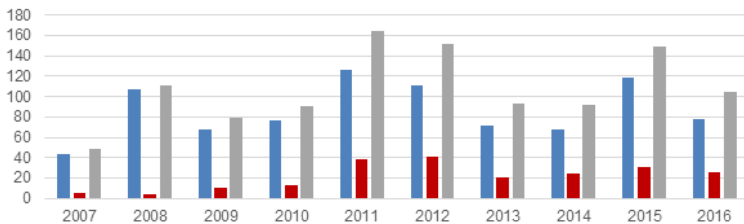
Alternative methods for dispute resolution (ADR) are well-respected and recognised, including by the courts. The UK also has a well-developed arbitration system – including for disputes with no UK connection – which the UK courts are used to supporting where necessary.

## High levels of attorney-client privilege

All UK IP attorneys enjoy a higher level of legal professional privilege than that available to IP attorneys in some other European states.

The bar chart below indicates, per UK court, the number of claims, per year.

■ High Court/Patents Court ■ IPEC ■ Total



# Great IP Global Hub

## International choice for IP

The UK has, over many years, been assessed as one of the top countries in the world for the effectiveness of its IP systems.

The US Global Innovation Policy Center, in 2019, ranked the UK second in the world for overall IP infrastructure, scoring the UK 42.22 to the USA's 42.66. The UK was additionally ranked first for trade marks and second for IP enforcement in the world.

In 2018-19, trade mark applications in the UK were 11.4% higher than in 2017-18, largely due to a 50% increase in filings from overseas, e.g. from China and the EU.

## Gateway to international IPR

The UK Intellectual Property Office (UK IPO) is an excellent starting point for global protection. The Paris Convention, Patent Co-operation Treaty, European Patent Convention and Patent Prosecution Highway are available for patents; the Hague Treaty for industrial designs; and the Madrid system for trade marks. The UK is signatory to 102 international treaties relevant to IP.

IP professionals from the UK are widely experienced in international procedures: they filed 1 in 20 of the total number of international trade mark applications (designating US, Japan, Canada, etc.) in 2018.

**Case study** – A major company, based in the US, needed quickly to obtain patents in a number of jurisdictions.

The company noted the high quality of the patent drafting of its UK patent attorneys, so it asked them to draft a patent application, which was then filed at the UK IPO along with a request for accelerated processing. Within six months of the application having first been filed, all prosecution objections before the UK IPO had been overcome.

This enabled the allowable UK patent application to be used as the basis for Patent Prosecution Highway requests in a number of jurisdictions (e.g. China, Japan, S. Korea, US).

Using this process, filing first in the UK, the corresponding US application reached grant faster than if the original application had been first filed at the US PTO.

During 2014-19, four of the top ten filers of PCT (international) patent applications were from UK firms.

UK IP professionals also file about one third of all European patent applications under the EPC, despite comprising only one fifth of the total cohort of European Patent Attorneys (EPAs). UK EPAs can continue to do so post-Brexit, as their representation rights are derived multilaterally and not via the EU.

## Strong data protection laws

The UK has had a regularly updated cyber-security strategy since 2011. The UK has also had data protection laws in place since 1998, upheld by the Information Commissioner's Office.

## English is a preferred law

English law is based on the principles of freedom of contract and common law; it is both predictable and flexible, and provides a balance between the very detailed approach often found in other jurisdictions and the more concise approach of some civil law jurisdictions.

These factors mean that interpreting licences and other IP transaction agreements enables the parties to have greater certainty as to their rights and obligations.

The UK legal system is one of the longest-established legal systems, yet has repeatedly adapted to new developments, and international or multilateral treaties of other territories.

**Case study** – The Medicines Patent Pool Foundation, a United Nations-backed public health organisation based in Switzerland, chose English law to govern the patent licensing agreements, which underpin its innovative business model promoting access to medicines for treating HIV, viral hepatitis C and tuberculosis.

At least seven US and European pharmaceutical companies have licensed patents to the pool, and 14 generic manufacturers from USA, Germany, India and China have out-licensed patents to enable distribution of medicines through low and middle-income countries.

English law was deemed appropriate as it is internationally well-respected, and accepted as a reliable and neutral choice of law by all parties. It also is flexible enough to accommodate the innovative licensing arrangements and to allow for their evolution as the project develops.

# Great IP Professionals

## Exceptionally skilled

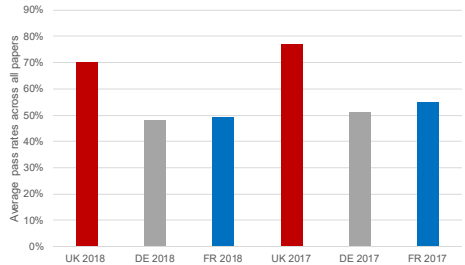
All UK IP professionals receive high levels of training and are required to meet exacting qualification standards, focused on their clients' commercial needs rather than on a purely academic answer.

Many UK IP professionals, including Barristers and Solicitors, are science & technology graduates, which enable them to advise on complex technical and scientific issues.

Patent and Trade Mark Attorneys and paralegals each have specific examinations in their fields. Many go on to specific training in litigating these rights. Also, most IP Solicitors have completed specialist post-graduate training in IP law and litigation.

UK candidates for the European Qualifying Examinations (EQEs) for entry onto the List of Representatives before the European Patent Office generally excel across all papers:

Average EQE pass rates for candidates in the UK, Germany and France, 2017 & 2018



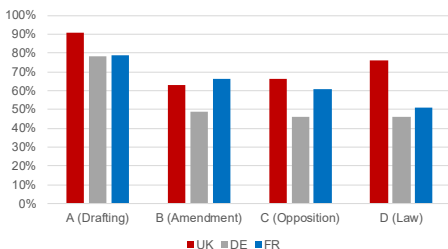
## Comprehensive service

UK IP professionals are usually trained in all areas of IP, and do business with a variety of markets and cultures, providing a global perspective, enabled by their notable diversity.

Many are qualified in international IP law, e.g. UK Patent Attorneys' exams cover the law in US, CN, JP, etc., as well as the EPC and PCT. Nearly 90% of the 40,000 European patent applications filed by UK IP professionals originate from outside the UK.

There are over 60 law firms that have dedicated IP practices, and the UK IP profession is not segregated according to whether practitioners are in-house or in private practice. Solicitors, Barristers, Patent Attorneys and Trade Mark Attorneys often work collaboratively to offer a one-stop, multi-jurisdictional shop, from IP registration to transactional advice to litigation.

EQE pass rates for candidates in the UK, Germany and France, 2019







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