

IN THE PATENTS COUNTY COURT

His Honour Judge² on³

Between

FREDERICK BLOGGS

Claimant/Applicant

-and-

JOSEPH SOAP

Defendant/Respondent

CASE MANAGEMENT DIRECTIONS

UPON THE APPLICATION of the Claimant made this day by his counsel for case management directions

AND UPON HEARING counsel for the Defendant

AND UPON READING the documents in the Court file recorded as having been read

IT IS ORDERED that:

1. Statements of Case

- (1) The Claimant may amend his Particulars of Claim in accordance with the draft attached to his application notice and re-serve the same upon the Defendant on or before [17:00 on].⁴

¹ Insert the claim number
² Insert the name of the judge or recorder who hears the case management conference such as "His Honour Judge Birss QC" or "Mr. Recorder Rumpole".
³ Insert the date (eg. "Monday 21 May 2012")
⁴ Insert the date and time for performance of this direction.

- (2) The Defendant may (if so advised) amend his Defence and re-serve his Amended Defence upon the Claimant within [.....]⁵ days of service of the Amended Particulars of Claim.

2. The Issues

The issues to be determined at trial (“**the Issue**”) are set out in the Schedule to this Order (“**the Schedule**”).

3. Disclosure

- (1) Each party will make and serve on the other by 17:00 on⁶ a list in accordance with form N265 of the documents in their control which relate to the Issues identified by paragraph 1 (1) and 2 (2) of the Schedule.
- (2) Should a party wish to inspect or have a copy of a document in the other party's control, the party wishing to inspect or have a copy shall give notify the other that it wishes to do so within [...] ⁷ days thereafter.
- (3) A party requiring a copy of a document he shall offer to pay the other party's reasonable copying charges.
- (4) Inspection of such document(s) shall be allowed, and/or copies furnished, within [...] ⁸ days of such notice.

4. Evidence

- (1). Save as set out below, the statements of case shall stand as evidence in chief in relation to the Issues.
- (2) In respect of the Issue identified in paragraph 1 (1) of the Schedule, the Claimant may make a witness statement and serve it upon the Defendant on or before 17:00 on⁹
- (3) In respect of the Issue identified in paragraph 2 (2) of the Schedule, the Claimant may make a witness statement and serve it upon the Claimant on or before 17:00 on¹⁰
- (4) Each of the witnesses may be cross-examined at trial.

⁵ Insert the number of days.

⁶ Insert the date and time for performance of this direction.

⁷ Insert the number of days.

⁸ Insert the number of days upon which inspection will be allowed or copy furnished. This should normally be within 14 days of the notice/

⁹ Insert the date and time for performance of this direction.

¹⁰ Insert the date and time for performance of this direction.

5. Skeleton Arguments

The parties may submit skeleton arguments in respect of each and every Issue.

6. Trial

The trial shall take place at [Manchester Civil Justice Centre]¹¹ on [.....]¹²

7. Trial Bundle

The parties shall try as follows to agree an indexed and paginated bundle of documents for use at trial that includes only relevant materials and avoids duplication (“**the Trial Bundle**”):

- (1) The Claimant shall send to the Defendant a list of the documents to be included in the Trial Bundle on or before 17:00 on¹³
- (2) The Defendant shall indicate to the Claimant which other documents he wishes include in the Trial Bundle on or before 17:00 on¹⁴
- (3) The Claimant shall prepare the Trial Bundle on before 17:00 on¹⁵

8. Timetable

- (1) The Claimant shall deliver one copy of the Trial Bundle to the Defendant and another to the Judge on before 17:00 on¹⁶
- (2) The parties shall exchange skeleton arguments and deliver copies to the Judge on before 17:00 on¹⁷

9. Judgment

Judgment will be handed down by¹⁸

¹¹ Most hearings will take place at the Rolls Building in Fetter Lane but paragraph 1.5 of the Patents County Court Guide provides for the court to sit outside London if the parties so desire for the purpose of saving costs.

¹² Insert the date of the trial.

¹³ Insert the date and time for performance of this direction. This should normally be not less than 21 days before the start of the trial.

¹⁴ Insert the date and time for performance of this direction. This should normally be not less than 14 days before the start of the trial.

¹⁵ Insert the date and time for performance of this direction. This should normally be not less than 7 days before the start of the trial.

¹⁶ Insert the date and time for performance of this direction. This should normally be not less than 3 full days before the start of the trial.

¹⁷ Insert the date and time for performance of this direction. This should normally be not less than 7 days before the start of the trial.

¹⁸ Insert the date and time for performance of this direction. This is normally within 2 calendar months of the date of trial.

10. Costs

Save that the costs occasioned by and resulting from the amendment of the Particulars of Claim shall be the Defendant's in any event, the costs of this case management conference shall be costs in the case.

Counsel for the Claimant

Counsel for the Defendant

The Schedule: The Issues to be Determined at Trial

1. Subsistence

- (1) Whether the design recorded in the drawing (“**the Drawing**”) annexed to the Particulars of Claim (“**the Design**”) is original in the sense that it is the result of the Claimant’s independent skill and labour or whether it was copied wholly or in part from the designs depicted in the photographs on pages 1 and 2 of the bundle of documents annexed to the Defence.
- (2) Whether the Design was commonplace in the field of buckle design at the time of its creation.
- (3) Whether the design of the tongue of the buckle identified in the Drawing as number 1 is a feature that enables the buckle to be connected to a belt so that the belt and buckle may perform their respective functions.

2. Infringement

- (1) Whether the Defendant’s buckle as identified in the brochure annexed to the Particulars of Claim is sufficiently similar to the Design to raise an inference of copying.
- (2) Whether the Defendant applied his own skill and labour in designing such buckle.