

## **Section 292: Rights and duties of registered patent agents in relation to proceedings in patents county court**

292.01 This section gives registered patent agents rights of audience before the patents county court and the right to conduct the rest of proceedings outside the courtroom. These rights are subject to such restrictions and conditions as may seem necessary and expedient. The patents county court will have jurisdiction in patents and design matters, and other matters which are inextricably linked with them. It will not have jurisdiction over purely trade mark disputes and, therefore, trade mark agents have not been given rights of audience under the special jurisdiction. Subsections (2A) and (7) were introduced by the Constitutional Reform Act 2005 to provide a role for the Lord Chief Justice of England and Wales or a judicial office holder appointed by him to make regulations in respect of the rights of registered patent agents in a patents county court.

### **Section 292(1)**

*A registered patent agent may do, in or in connection with proceedings in a patents county court which are within the special jurisdiction of that court, anything which a solicitor of the Supreme Court might do, other than prepare a deed.*

292.02 A registered patent agent may conduct all stages of proceedings before the patents county court as though he were a solicitor of the Supreme Court. This allows him both to have rights of audience before the court and also to act for his client outside the courtroom, but not to prepare deeds.

### **Section 292(2)**

*The Lord Chancellor may by regulations provide that the right conferred by subsection (1) shall be subject to such conditions and restrictions as appear to the Lord Chancellor to be necessary or expedient; and different provision may be made for different descriptions of proceedings.*

292.03 The Lord Chancellor may regulate the rights granted to patent agents in subsection (1). The right may be subject to such restrictions and conditions as are considered expedient. Different regulatory provisions may be introduced for different descriptions of proceedings.

### **Section 292(2A)**

*The Lord Chancellor may make regulations under subsection (2) only with the concurrence of the Lord Chief Justice.*

### **Section 292(3)**

*A patents county court has the same power to enforce an undertaking given by a registered patent agent acting in pursuance of this section as it has, by virtue of section 142 of the County Courts Act 1984, in relation to a solicitor.*

292.04 In the course of proceedings a party's legal representative may give various undertakings to the court and it is an important element in the confidence placed in that representative that there should be a sanction if he fails to make these good. Section 142 of

the County Courts Act 1984 allows the county court to enforce an undertaking given by a solicitor. Subsection (3) extends that power to apply to registered patent agents in the patents county court.

**Section 292(4)**

*Nothing in section 143 of the County Courts Act 1984 (prohibition on persons other than solicitors receiving remuneration) applies to a registered patent agent acting in pursuance of this section.*

292.05 Subsection (4) removes the prohibition, in section 143 of the County Courts Act 1984, on persons other than solicitors receiving remuneration when they conduct litigation in the patents county court. Otherwise patent agents would be unable to take payment for such work.

**Section 292(5)**

*The provisions of county court rules prescribing scales of costs to be paid to solicitors apply in relation to registered patent agents acting in pursuance of this section.*

292.06 Subsection (5) ensures that where a party represented by a patent agent in patents county court proceedings becomes entitled to costs against the other party, the patent agent's bill of costs can be taxed in the same way as that of a solicitor. Section 75(1) of the County Courts Act (rules of procedure) enables the County Court Rule Committee to prescribe scales of costs to be paid "to counsel and solicitors". This subsection effectively widens the scope of that subsection so that the existing scale provisions will cover patent agents where necessary.

**Section 292(6)**

*Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.*

**Section 292(7)**

*The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this section.*